



# **MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

## **STANDARD SOLICITATION: COMPETITIVE BIDS, ACCEPTANCE FORM, AND CONTRACT DHMH FORM 3982**

### **SMALL BUSINESS RESERVE VENDORS ONLY**

#### **DATA ENTRY SERVICES**

#### **DHMH OPASS 10-10107**

**If this Invitation For Bids was obtained by any means other than the Issuing Office identified herein, please contact that office immediately to ensure that you receive all addenda or errata.**

**Minority Business Enterprises Are Encouraged To Respond To This Solicitation**

**VENDORS AND CONTRACTORS  
ENCOURAGEMENT OF PARTICIPATION STATEMENT**

The State of Maryland is actively seeking to increase participation from businesses and organizations in the procurement of goods and/or services. Accordingly, all potential bidders are encouraged to complete the "Vendor/Contractor Survey", which is on the following page. We ask that you supply any comments regarding the solicitation process or documents and/or the reason(s) for declining to bid. Please return this form either with your submission package or in an envelope addressed to the Issuing Office, identified on page 1 in this Invitation For Bids even if you are not bidding on this solicitation.

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<b>KEY INFORMATION SUMMARY PAGE</b>
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Title of IFB: **Data Entry Services**

IFB Issue Date: **April 27, 2009**

IFB Number: **DHMH-OPASS-10-10107**

Description of services: The Maryland Department of Health and Mental Hygiene (DHMH) is soliciting bids for data entry and 100% key verification services. The contractor will be required to pick up source documents and return key entered data in electronic format according to the schedule and other requirements detailed in this solicitation.

Procurement Method: Multi-Step Competitive Sealed Bids (COMAR 21.05.02.17)

Contract Term: August 1, 2009 – July 31, 2012

eMaryland Marketplace: In order to receive a contract award, a vendor must be registered on eMaryland Marketplace (eMM). The eMM website is <https://ebidmarketplace.com/>.

**Issuing Office:** Information Resources Management Administration  
Department of Health and Mental Hygiene  
201 W. Preston Street  
Baltimore, Maryland 21201

**Issuing Office Point of Contact:** Linda Neeley  
(Submit Bids To) Administrative Officer III  
DHMH - Information Resources Management Administration  
201 W. Preston Street  
Baltimore, Maryland 20201  
Telephone: (410) 767-3877  
Fax : (410) 333-5841  
Email: [LNeeley@dhmh.state.md.us](mailto:LNeeley@dhmh.state.md.us)

**Procurement Officer:** Sharon Gambrell, CPPB, Assistant Director  
DHMH- Office of Procurement and Support Services  
201 W. Preston Street – Room 416B  
Baltimore, Maryland 20201  
Telephone: (410) 767-5117  
Fax: (410) 333-5958  
Email: [GambrellS@dhmh.state.md.us](mailto:GambrellS@dhmh.state.md.us)

Contract Monitor: Joann McCray-Johnson  
Department of Health and Mental Hygiene  
Information Resources Management Administration  
201 W. Preston Street, Room SS-4  
Baltimore, Maryland 21201  
Telephone: 410-767-5489  
Email: [JMcCray-Johnson@dhmh.state.md.us](mailto:JMcCray-Johnson@dhmh.state.md.us)

Deadline for receipt of bids: Tuesday, May 26, 2009 at 2:00 p.m. local time

Bids Received At: Department of Health and Mental Hygiene  
Linda Neeley , Administrative Office III  
IRMA – Information Resource Management Administration  
201 W. Preston Street / Room 401  
Baltimore, Maryland 21201

Pre-bid conference: Department of Health and Mental Hygiene, 201 W. Preston Street,  
Room L-1, Baltimore, Maryland 21201 on Thursday,  
May 4, 2009 at 1:00 P.M. until 4:00 P.M. Paid Parking available across  
the street from the 201 building. Please contact Linda Neeley at 410-767-  
3877 if you require special arrangements. See Attachment E for directions  
to Pre-bid Conference.

**THIS SOLICITATION SHALL BE MADE IN ACCORDANCE WITH THE SMALL BUSINESS  
RESERVE PROGRAM DESCRIBED IN COMAR 21.11.01.06** (Access at: <http://www.dsd.state.md.us/comar>)

MBE subcontracting goal: A Minority Business Enterprise Subcontracting Goal of **20%** has  
been established for the contract to result from this solicitation.

## **LIST OF APPENDICES**

Appendices listed here will be found in Part IX of this IFB.

<b>APPENDIX A:</b>	<b>BID/PROPOSAL AFFIDAVIT</b>
<b>APPENDIX B:</b>	<b>CONTRACT AFFIDAVIT</b>
<b>APPENDIX C:</b>	<b>DHMH STANDARD ADDENDUM FOR THE MEANS OF DELIVERING BIDS OR PROPOSALS</b>
<b>APPENDIX D:</b>	<b>LIVING WAGE REQUIREMENTS</b>
<b>APPENDIX E:</b>	<b>AFFIDAVIT OF AGREEMENT</b>
<b>APPENDIX F:</b>	<b>HIPAA BUSINESS ASSOCIATE AGREEMENT</b>
<b>APPENDIX G:</b>	<b>VENDOR ELECTRONIC FUNDS (EFT) REGISTRATION REQUEST FORM</b>
<b>APPENDIX H :</b>	<b>MBE ATTACHMENTS</b>
<b>APPENDIX I :</b>	<b>STATE HOLIDAYS</b>

Acceptance of a contract resulting from this IFB indicates intent to comply with all conditions that are part of this solicitation document.

## Vendor Comments

In order to help us improve the quality of State solicitations, and make our procurement process more responsive and business-friendly, we ask that you take a few minutes to complete this form and submit it to the Procurement Officer listed on the following page. Thank you for your assistance.

Bid Number: \_\_\_\_\_

Entitled: \_\_\_\_\_

### I. If you are not bidding, please indicate why:

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not in our business line.
- ☐ We lack experience in the work/commodities required.
- ☐ The scope of work is beyond our current capacity.
- ☐ We cannot be competitive (Please explain below.)
- ☐ Specifications are either unclear or too restrictive. (Please explain below.)
- ☐ Bid/proposal requirements, other than specifications, are unreasonable or too risky. (Please explain below.)
- ☐ Time for completion is insufficient.
- ☐ Bonding/insurance requirements are prohibitive. (Please explain below.)
- ☐ Doing business with government is simply too complicated.
- ☐ Prior experience with State of Maryland contracts was unprofitable or otherwise unsatisfactory (Please explain below.)
- ☐ Other: \_\_\_\_\_

### II. Please explain your response further, offer suggestions or express concerns. (Use the back for additional information.)

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### OPTIONAL:

Vendor Name: \_\_\_\_\_ Date \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Address or e-mail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Thank You!!!

**STANDARD SOLICITATION:  
COMPETITIVE BIDS, ACCEPTANCE FORM,  
AND CONTRACT**

April 27, 2009  
(Date of Solicitation)

**Data Entry Services**

**Note: Minority Business Enterprises are encouraged to respond to this solicitation notice.**

Part I – III      Standard Solicitation, Bid and Acceptance Form      Pages **8 - 28**

Part IV – VIII    Contract      Pages **29 - 53**

**PART I - SOLICITATION INFORMATION AND INSTRUCTIONS**

**General:**

The Information Resources Management Administration, Computer Operations Division, a unit of the Maryland Department of Health and Mental Hygiene, hereinafter called the Department, desires competitive sealed bids for the purpose of obtaining the service(s) described in PART II of this solicitation.

**ATTENTION:** Bids should be type written or written legibly in ink. The signer shall initial all erasures and other changes in ink. All bid envelopes shall be labeled with the following information:

- Item: MULTI-STEP SEALED BID
- Title Of Solicitation/Contract:  
Contract:
- Contract Term:
- Due Date of Bid Receipt:
- Date and Time of Price Bid Opening:

**SAMPLE:**

SEALED BID Provision of Temporary Nursing Services At Central Hospital Center February 30, 2000 - 1:00 pm
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**Bid Due Date and Time:**

The contract will be awarded through the Multi-Step Sealed Bidding procurement method. Bidders must submit bids in separately sealed envelopes that are listed as follows: “Multi-Step Sealed Bid – Information Resources Management Administration”. One envelope must be labeled “Technical Offer”; one envelope which constitutes the price bid, is to be labeled “Price Bid – Information Resources Management Administration”; and a separate envelope labeled “MBE Documents.” For additional information see special instructions in Part 2, Bid Submission Requirements and the Procurement Method section below.



Sealed bids, in triplicate, will be received at the Office of:

Department of Health and Mental Hygiene  
Information Resource Management Administration  
201 W. Preston Street, Baltimore, Maryland 21201  
ATTN: Linda Neeley

on Tuesday, May 26, 2009, until 2:00 o'clock P.M. local time, and then, unless specified otherwise in PART II, publicly opened. Any bid not received by this time and date shall not be considered (See PART III, E).

### **Delivery of Bids:**

Bidders may either mail or hand-deliver bids. Hand-delivery includes delivery by commercial carrier. For any type of direct (non-mail) delivery, bidders are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. (See attached "Standard Addendum for the Means of Delivering Bids and Proposals." (APPENDIX C)

### **Opening of Bids:**

Price bids shall be opened on June 2, 2009 at 10:00 o'clock A.M. local time at 201 W. Preston Street, Baltimore, Maryland 21201, Room 401.

### **eMaryland Marketplace (eMM):**

In order to receive a contract award, a vendor must be registered on eMM. The eMM website is <https://ebidmarketplace.com/>

### **Electronic Funds Transfer:**

By submitting a response to this solicitation, the bidder agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected bidder shall register using form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form attached as Appendix D. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

### **Pre-Bid Conference:**

The Department will hold a pre-bid conference concerning this bid. This conference will be held at 1:00 o'clock P. M. local time on May 4, 2009, at the Department of Health and Mental Hygiene, 201 W. Preston Street, Room L-1, Baltimore, Maryland 21201.

Notice is hereby given that attendance at the pre-bid conference described above is not a condition to bidding on this solicitation. However, the information provided at this pre-bid conference is generally very helpful. Bidders are, therefore, encouraged to attend. For further information regarding the pre-bid conference, please contact:

<u>Linda Neeley</u>	<u>Administrative Officer III</u>	<u>410-767-3877</u>
Name	Title	Telephone No.

<u>201 W. Preston Street, 4<sup>th</sup> Floor, Baltimore, Maryland 21201</u>
Address

**Procurement Officer:**

The Procurement Officer responsible for this solicitation is:

<u>Sharon Gambrill, CPPB</u>	<u>410-767-5117</u>	<u>410-333-5958</u>
Name	Telephone #	fax #
<u>Assistant Director, DHMH Office of Procurement &amp; Support Services</u>		
Title		
<u>201 W. Preston Street, 4<sup>th</sup> Floor, Baltimore, MD 21201</u>		
Address		
GambrillS@dhhm.state.md.us		

## **PART II – SPECIFIC REQUIREMENTS/DELIVERABLES OF PROPOSED CONTRACT (SPECIFICATIONS) AND BID PAGE**

**Background:** The Department of Health and Mental Hygiene (DHMH) promotes the health of all Maryland citizens by providing health and support services, as the advocate for public health initiatives and programs, to improve the quality of life for Maryland's citizens. Maryland's public health is the business of DHMH. The Information Resources Management Administration (IRMA) coordinates, plans, develops, and maintains Department-wide information resources electronic communication to ensure public health support services for Maryland's citizens. Technological support, information services, and electronic communication must be accessed accurately, timely, and provide complete information in accordance with the Department's Information Resources Strategic Plan.

The Computer Operations Division (COD), a Data Processing customer services unit within IRMA, provides comprehensive mainframe-based data processing services to all DHMH units. Documents are received by COD on a daily basis and in different forms. These forms contain pertinent data elements, which are entered into a computer-based media and subsequently processed through Annapolis Data Center.

The Department's workload is dependent upon organizations outside the Department's control. Due to this fact, DHMH cannot guarantee a specific volume or mixture of work.

### **Definitions:**

**Document** – distinct type of form to be processed under this contract; document types will be identified in the document specifications.

**Record** – one unit of a document. Certain document types are equal to one record; other document types may contain multiple records. Each document type will be identified as single or multiple record in the document specifications.

**Data Entry** – key entry of data from paper source documents to electronic media

**Key Verification [100%]** – re-keying data in its entirety to ensure 100% accuracy.

**Data Entry Error** – A data entry error is any key stroke entry that does not match the data of the source document, e.g., entry of one or more incorrect characters or omission of required characters as defined in the document specifications.

**Error Rate** – The error rate of one percent (1%) is defined on a per record and document type basis. Any **record** with one or more data entry errors counts as an "error." The error rate is calculated by dividing the total errors (per month) by the total records (per month) of a particular document type.

**Purpose and Scope:** The Department intends to contract for data encoding and 100% key verification services for the documents listed in the table below.

The Department requires a contractor to pick-up batched documents on Monday, Wednesday, and Friday of each week of the contract that results from this solicitation from the Contract Monitor at 201 West Preston Street, Room SS4, Baltimore, Maryland 21201, key-stroke required

information from the documents, verify all keyed data, save the key-stroked and verified data on CD files, and deliver the completed CD files and original documents to the Department of Health and Mental Hygiene on a three times per week delivery schedule. Each returned batch of documents shall contain a batch cover form specifying the document type and number of documents and records key-stroked in that batch.

Pickup and delivery times shall be between 8:30 a.m. and 11:00 a.m., on each Monday, Wednesday, and Friday which are regularly scheduled State workdays. In the event pickup/delivery falls on a Maryland State Holiday, or on a day when pickup/delivery is not possible, e.g., snow days, the pickup/delivery is to be deferred to no later than the next State workday which falls on a Monday, Wednesday, or Friday. See, Appendix I for State Holiday listings.

An error rate of 1% or greater [see definition above] for any document type during any three months of the contract shall be considered as cause for breach of contract, and may result in early contract termination by the Department as set forth in Part VI, paragraph 12, Termination for Default.

The following table provides historical data on the volume of work performed under the Department's current data entry contract. This data is provided to assist potential bidders to assess their ability to meet the requirements of this solicitation. Actual volume may be higher or lower and financial bids will be based on estimated quantities contained in the Financial Bid Sheet. Payment, however, will be based on actual volume of work performed.

***January – December 2008 (unless otherwise noted)***

Document Type	Monthly Average Number of Records	Monthly Range	
		Low	High
Burials	2,848	2,254	3,429
Cancer (CMS 1500, UB04)	4,278	3,493	4,956
Deaths	3,627	2,967	4,119
FMIS (M40, M42, M43)	1,719	1,309	2,497
GES	1,100	700	1,457
Kidney (CMS 1500, UB04)	*5,008	2,203	10,098
Map	7	0	19
Steps	1,669	830	3,364
UBIP/OP (UB04)	31,521	7,963	86,660
UBIP/OP Attachment	**98,942	57,833	161,212
<b>ALL DOCUMENTS</b>	<b>150,719</b>	<b>69,947</b>	<b>196,877</b>

\*Mar – Dec 2008

\*\*Feb – Dec 2008

**Attachment A**, Sample Data Entry Documents and Specifications, provides sample copies of the relevant DHMH forms and specifications for the information to be encoded and verified from each document.

## **Mandatory Qualifications/Requirements:**

**Experience:** Bidders must have a minimum of **three (3) years of current continuous experience** providing data entry services comparable to that required in this solicitation.

**Staffing:** Bidders must have a minimum of **25 data entry staff (or full-time equivalent)** to process the typical volume of work within the timelines required under this solicitation as noted in the Scope of Work. Bidders shall identify the number and type of staff in the Bid Submission Requirements section.

**Location:** Bidders' place of work shall be located such that it will allow staff to meet the pick up, delivery, and data processing schedule required under this solicitation. In no case shall the distance be greater than **250 road miles** from DHMH Headquarters in Baltimore.

**Test File:** Bidders shall complete a satisfactory test file, as provided by the Department. Test files must be submitted with bids by the bid submission deadline. Failure to produce a satisfactory test file, within the required time frame, shall be cause for bidder to be determined to be not reasonably susceptible for award.

The procedure for completing the test file shall be:

1. The Department will provide bidders with specifications for the document types to be tested and test source documents for data entry.
2. The bidders shall create electronic templates of documents based on the specifications provided.
3. The bidders shall pick up test documents from the Contract Monitor or other designated Department staff from Room SS4, 201 W. Preston Street, Baltimore MD 21201.
4. The bidders shall key enter data from test documents to templates, perform 100% verification and save documents to CDs. Each document batch must be saved to a separate CD.
5. The bidders shall submit the test documents and CDs containing key entered documents with their bids to the Department's designated Procurement Officer.
6. The Department will review the test files submitted by each bidder for completeness and accuracy of the electronic templates and data key entry. The test file shall not be deemed acceptable if more than one percent (1%) of the records in the test file contain errors.

Test Data will be available for pick-up no later than ten (10) days before the due date for bid submissions. The Department will provide notice when test data is available and bidders must contact the Contract Monitor at least 24 hours in advance of picking up test data in order to allow time for copies to be made.

## **STATEMENT OF WORK / DELIVERABLES:**

### **CONTRACTOR REQUIREMENTS:**

1. The Contractor shall create electronic versions of the source documents according to the specifications provided by the Department.
2. Contractor shall pick-up source documents from DHMH Headquarters at 201 W. Preston

Street, Room SS-4, Baltimore, Maryland 21201 and return documents and data encoded CDs to the same location according to the following schedule:

<u>Pick-up</u>	<u>Deliver/Return</u>
Monday	Friday (of the same week)
Wednesday	Monday (of the following week)
Friday	Wednesday (of the following week)

Any deviation from or extension to this schedule requires the approval in advance of the DHMH Contractor Monitor.

3. Contractor shall adhere to the following safety and security standards during transportation of source documents and CDs:

**Source Documents:** Source documents shall be stored in sealed, fire-proof, and locked containers while being transported between the Department and Contractor's site. Containers for transporting source documents and CDs shall be provided by the contractor

**CDs:** All CD ROMs shall be stored in CD manufacturer's plastic case or sleeve to ensure that information is protected and not damaged. All CD ROMs shall be stored in sealed, fire-proof, locked containers to ensure information is protected from damage.

**Vehicles:** Vehicles used for transporting source documents and CDs shall have an enclosed cargo area and be equipped with a portable fire extinguisher.

4. Contractor shall perform all data entry work on the contractor's or named subcontractor's premises from paper source documents furnished by the Department. Data from DHMH source documents shall be written to electronic CD ROM media provided by the contractor or subcontractor.
5. Contractor shall data encode and provide 100% verification of all source documents and write the records to CD ROM(s) (Write-only CD-R) in a media that uses American Standard Code for Information Interchange (ASCII).
6. Contractor shall employ quality control procedures to ensure that the error rate does not exceed 1% as specified in the Scope of Work.
7. Contractor shall enter records for each type of document on separate CDs. Each CD shall contain one type of document, and the CD shall be clearly labeled identifying the document type, total number of records processed, and date.
8. Contractor shall provide contiguous batches on completed CD files; however, no batch is to be split between CDs when more than one output CD is to be produced.
9. Contractor shall provide a separate report with each CD file delivered to the Department's contract monitor, identifying the document type and document list. The document list shall include the batch number in numerical order, Julian date if applicable, and number of documents and records in each batch. The report shall also include the total number of batches, total number of documents, and total number of records. (See Attachment B for

example.)

10. Contractor shall provide a dated shipment report with each shipment listing each document type included in the shipment, the Julian date if applicable, the batch numbers in order, the number of batches, number of documents and number of records for each document type. (See Attachment C for example.)
11. Should all documents in a batch not be processed, contractor shall indicate the total number of records returned to the Department without document processing and the reason that the records were not processed. The number of records produced on each CD will be verified by the Department's contract monitor and be utilized for invoice verification and payment.
12. Contractor shall maintain, on contractor's premises, a duplicate of all CDs containing encoded data for a minimum **4-week** period from the date documents/records are processed. After the **4-week** period, the duplicate CDs shall be delivered to the Contract Monitor for appropriate disposal.
13. Contractor shall maintain all documents and records obtained or created during the contract performance period in accordance with confidentiality requirements for the State of Maryland and the federal government. See Part II.E – Confidentiality and Security Requirements - HIPAA Clause.
14. In compliance with Department record retention schedules, Contractor shall preserve and make available , at the request of the Department's Contract Monitor, Department records for a period of five years from the date of contract completion. These records may include but are not limited to documentation relating to the contract with the Department, shipment reports as described in #10 above, invoices, etc.
15. Contractor shall ensure that any record pertaining to work performed under this contract that results from this solicitation is available for inspection on normal workdays, excluding State holidays, between 8:30 a.m. and 5:00 p.m., to designated State and/or federal officials.
16. Contractor shall not publish any result of work produced under the contract that results from this solicitation for the Department, without the written approval of the Department. Upon the expiration or termination of the contract, all source data, and computer output media developed by the contractor shall be delivered to, and become the property of, the Department.
17. Contractor shall ensure that all personnel, including any sub-contractor personnel, assigned to work on this contract have had a recent (within the past three years) National Crime Information Center (NCIC) criminal background investigation. Within 30 days of contract award, contractor shall provide documentation to the Contract Monitor that all personnel have passed the background investigations. Any employees the contractor wishes to assign to work on this contract after the contract is awarded must have successfully completed a NCIC criminal background check prior to beginning work. The contractor may not assign an employee to the project who has a criminal record unless prior written approval is obtained from the Department. The contractor shall keep on file NCIC documentation for each employee assigned to work on this contract.

18. Contractor shall ensure that its personnel are fully trained in security and confidentiality issues relative to handling, processing, and transporting source documents, records, and CDs. In addition, the contractor shall keep on file a copy of a statement signed by each employee verifying that the employee has received and will comply with the required training. See Part II.E – Confidentiality and Security Requirements - HIPAA Clause.
19. Contractor shall ensure compliance with the State of Maryland, Vendor Electronic Funds Transfer (EFT). See Section IX, Appendix F.
20. Contractor may subcontract **no more than 30%, by total contract value**, of data encoding and key verification services, as defined in the Scope of Work.
21. All Subcontractor personnel are subject to and must meet all of the requirements described above including criminal background checks, training, security and confidentiality. The Prime Contractor shall keep copies of documentation verifying that these requirements have been met.
22. Contractor shall submit a narrative within ten days of contract award regarding the quality control requirement, which includes a description of the sampling, validating, and reporting processes to be used for this project. Contractor's quality control procedures, as described in this narrative, must be acceptable to, and approved by the Department.

Failure to meet the requirements specified in Part II, Statement of Work: Contractor Requirements and Deliverables, shall be considered as cause for breach of contract.

#### **DUTIES OF THE DEPARTMENT:**

1. The Department shall provide Contractor with source material.
2. The Department shall be available to Contractor for source document pick-up and CD delivery, according to the schedule detailed in this solicitation.
3. The Department shall provide Contractor with contact information including names and telephone number of all relevant DHMH personnel.

(The Remainder of this Page is Blank)



## **Insurance Requirements:**

Prior to commencing work on this contract, the contractor shall provide the Department with a Certificate of Insurance for itself and any subcontractor under the agreement covering claims arising from the operations and provided under the contract. These insurance coverages shall include the following, as well as any insurance as necessary and required by the U.S. Longshoreman's and Harbor Worker's Compensation Act, the Federal Employers' Liability Act, and any other applicable statute:

- a. The statutory limit for Worker's Compensation coverage;
- b. Broad Form Comprehensive General Liability Insurance with a minimum bodily injury limit of \$300,000 for each person and \$500,000 aggregate for each.
- c. Professional Liability Insurance with a minimum limit of \$1,000,000 per incident and \$3,000,000 aggregate for each occurrence; and
- e. Automobile Liability, if applicable.

All coverages shall be provided by insurance companies licensed to do business in the State of Maryland and shall be endorsed to provide 30 day notice of cancellation or non-renewal to the Department's Contract Monitor identified in PART III of this document. All insurance shall be in an amount and type acceptable to the State of Maryland. Any self-insurance program must be documented including any necessary regulatory approval. The contractor will name the State of Maryland as an Additional Named Insured on all liability policies (Workers' Compensation excepted).

## **Confidentiality and Security Requirements:**

### COMPLIANCE WITH FEDERAL HIPAA AND STATE CONFIDENTIALITY LAW

- A. The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq. and implementing regulations including 45 CFR Parts 160 and 164. The contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (Md. Code Ann. Health-General §§4-301 et seq., MCMRA). This obligation includes:
  1. As necessary, adhering to the privacy and security requirements for protected health information and medical records under federal HIPAA and State MCMRA and making the transmission of all electronic information compatible with the federal HIPAA requirements; and
  2. Providing training and information to data entry workers and other staff regarding confidentiality and security obligations as to health and financial information and securing acknowledgement of these obligations from individuals to be involved in the work; and
  3. Otherwise providing good information management practices regarding all health information and medical records.
- B. The Department has determined that functions to be performed in accordance with the Services to Be Performed set forth in Part I constitute business associate

functions as defined in HIPAA. The selected offeror must execute a Business Associate Agreement as required by HIPAA regulations at 45 CFR §164.501 and set forth in Appendix I. The fully executed business associate agreement must be submitted within 10 working days after notification of selection. Upon expiration of the ten-day submission period, if the Department determines that the selected offeror has not provided the HIPAA agreement required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the next qualified offeror.

- C. Protected Health Information as defined in the HIPAA regulations at 45 CFR 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

## **PROCUREMENT METHOD**

1. It is the intention of the Department the award this contract through the Multi-Step Sealed Bids procurement method as described in Code of Maryland Regulations (COMAR) 21.05.02.17.
2. Bidders must submit bids in separately sealed envelopes. One envelope must be labeled “Technical Offer;” one, which constitutes the price bid, is to be labeled “Price Bid;” one envelope containing MBE forms A and B must be labeled “MBE Documents”. All envelopes are to be labeled Multi-Step Sealed Bid – **DHMH-OPASS – 10-10107**.
  - (i) The Technical Offer envelope shall contain all items listed in Part I-VIII except the Bid Page. In addition the technical envelope shall contain the signature page and all appendices.
  - (ii) The Price Bid envelope shall contain only the Bid page.
  - (iii) A separate envelope shall contain MBE forms A and B.
  - (iv) Bidders are to submit three (3) originals of the Technical Offer, three (3) originals of the Price Bid, and three (3) originals of the MBE Documents, plus 2 additional copies of each.
  - (v) All bids are to be submitted by the bid date and delivered to DHMH as prescribed in Section I of the solicitation (Solicitation Information and Instructions)
3. Technical Offers will not be opened publicly, but will be opened in the presence of at least two state employees. Technical Offers will then be reviewed. Prior to Price Bid opening, Technical Offers will be shown only to state employees and members of the Review Committee with a legitimate interest in them.

4. Once Technical Offers have been reviewed and accepted, Price bids from only those bidders whose Technical Offers have been found acceptable shall be publicly opened at the date, time and place specified in Section I. Price Bids from bidders whose Technical Offers have been found unacceptable shall be returned unopened.
5. At the time of Price Bid opening, a register of bids will be prepared that identifies each qualifying bidder. The register of bids shall be open to inspection.

#### **BID SUBMISSION REQUIREMENTS:**

All items listed below are required at the time of bid submission and must be current and up-to-date.

**TECHNICAL OFFER must include the items listed below.** Bidders who do not provide the required documentation current at the time of bid opening will not be considered.

- A. **Experience:** All bidders shall provide proof of at least three (3) years of current continuous experience providing data entry services.
- B. **Staffing and Operations:** All bidders shall submit an organizational chart including identification of number of data entry and any other relevant staff needed to perform the services detailed in this solicitation. In addition, bidders shall submit documentation showing location of data entry operations, hours of operation, work shifts, etc.
- C. **Test File:** All bidders shall submit a completed test file according the instructions in the Mandatory Requirements section.

The bidder shall submit one copy of the following with each bid submission:

#### **BID PROPOSAL AFFIDAVIT**

All bidders must complete and submit with their bid, the Bid/Proposal Affidavit attached hereto.

Bids that do not include the Bid/Proposal Affidavit may be considered non-responsive and rejected by the Procurement Officer.

#### **PROOF OF FISCAL INTEGRITY**

The bidder shall provide the most current annual report to stockholders and/or any documentation that indicates corporate and/or other financial resources that will permit the bidder to fulfill the terms of this IFB. This documentation may include but is not limited to, one or all of the following:

- A. Dunn and Bradstreet Ratings
- B. Audited Financial Statements
- C. Line(s) of Credit
- D. Successful financial track record
- E. Adequate Working Capital

## LEGAL ACTION SUMMARY

The bidder shall provide a Legal Action Summary that includes the following. Please respond to all.

- A. A statement as to whether there are any outstanding legal actions or potential claims against the bidder and a brief description of any such action.
- B. A brief description of any settled or closed legal actions or claims against the bidder over the past five (5) years.
- C. A description of any judgments against the Offeror within the past five (5) years, including the case name, number court, and what the final ruling or determination was from the court.
- D. In instances where litigation is ongoing and the bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.

## PAST STATE EXPERIENCE

As part of its offer, each Offeror is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which have been completed within the last 5 years.

For each identified contract the Offeror is to provide:

- The State contracting entity
- A brief description of the services/goods provided
- The dollar value of the contract
- The term of the contract
- The State employee contact person (name, title, telephone number and if possible e-mail address)
- Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

## MINORITY BUSINESS ENTERPRISE (MBE) AFFIDAVITS AND DOCUMENTATION

The bidder shall provide the required MBE affidavit and documentation (MBE Attachment A, Appendix H and MBE Attachment B, Appendix H) identified in Part IV of this document, as part of the bid submission. The MBE must be certified in Maryland. **Failure to include these documents in the sealed bid shall render the bid non-responsive and require that the Department not consider the bid for award.**

## LIVING WAGE AFFIDAVIT

The bidder shall provide the required Living Wage Affidavit (Appendix E) identified in Part VI of this document as part of the bid submission.

## PRICE BID – SEPARATE ENVELOPE

The Bidder shall provide in a separate sealed envelope the completed Bid Pages

## BASIS FOR AWARD:

The “Total Contract Base Price” specified will be used to establish the lowest bid price and selection for recommendation for award. The award will be made to the most favorable (lowest) responsive and responsible bidder as a result of this IFB.

# BID PAGES

## Data Entry Services

**Department of Health and Mental Hygiene  
Information Resources Management Administration  
Financial Bid Sheet  
Base Contract Year # 1**

**BIDDER:** \_\_\_\_\_

Document Type	Estimated Number of Records for 52 wk Period <i>(For bidding purposes only)</i>		Firm Fixed Unit Price per Record		Total Price
A. Burials	36,000	X	\$ _____	=	\$ _____
B. Cancer CMS 1500	48,000	X	\$ _____	=	\$ _____
C. Cancer UB92/04	12,000	X	\$ _____	=	\$ _____
D. Death	45,000	X	\$ _____	=	\$ _____
E. FMIS M40	12,000	X	\$ _____	=	\$ _____
F. FMIS M42	4,000	X	\$ _____	=	\$ _____
G. FMIS M43	8,000	X	\$ _____	=	\$ _____
H. GES	16,000	X	\$ _____	=	\$ _____
I. Kidney CMS 1500	52,000	X	\$ _____	=	\$ _____
J. Kidney UB92/04	27,000	X	\$ _____	=	\$ _____
K. Map	500	X	\$ _____	=	\$ _____
L. STEPS / PASRR	20,000	X	\$ _____	=	\$ _____
M. Medicaid UB92/04 IP/OP	1,800,000	X	\$ _____	=	\$ _____
<b>N. Total Document Price Contract Year 1 (A+B+C+D+E+F+G+H+I+J+K+L+M)</b>					<b>\$ _____</b>
<b>Pick-up &amp; Delivery</b>					
<b>Avg Gas Price (per gallon)*</b>	<b>Number of Round Trips (150 Annually)</b>	<b>X</b>	<b>Price per Round Trip</b>		
O. \$0.01 - \$1.99	30	X	\$ _____	=	\$ _____
P. \$2.00 - \$2.99	30	X	\$ _____	=	\$ _____
Q. \$3.00 - \$3.99	30	X	\$ _____	=	\$ _____
R. \$4.00 - \$4.99	30	X	\$ _____	=	\$ _____
S. \$5.00 or more	30	X	\$ _____	=	\$ _____

<b>T. Total Pick-up &amp; Delivery Price Contract Year 1 (O+P+Q+R+S)</b>	\$ _____
Line "T" used for bidding and contract NTE amount; monthly invoice amount based on gas price for month being billed	
* Based on average price per gallon of Regular unleaded gasoline for the Washington-Baltimore DC-MD-VA-WV region for the most recent month preceding the billing month, according to the U.S. Dept. of Labor Consumer Price Index (CPI). ( <a href="http://www.bls.gov/CPI/">http://www.bls.gov/CPI/</a> ) SEE ATTACHMENT D for sample	
<b>Total Price For Base Contract Year One (N + T)</b>	<b>= \$ _____</b>
	<b>TOTAL YEAR 1</b>

**Important: Do not alter this page.** Failure to fill out this bid page completely, or altering the bid page in any way may render your bid non-responsive. Should you have any questions regarding this bid page contact the Procurement Officer identified in PART I.

## Data Entry Services

### Department of Health and Mental Hygiene Information Resources Management Administration Financial Bid Sheet Base Contract Year # 2

BIDDER: \_\_\_\_\_

Document Type	Estimated Number of Records for 52 wk Period <i>(For bidding purposes only)</i>	X	Firm Fixed Unit Price per Record	Total Price
A. Burials	36,000	X	\$ _____	= \$ _____
B. Cancer CMS 1500	48,000	X	\$ _____	= \$ _____
C. Cancer UB92/04	12,000	X	\$ _____	= \$ _____
D. Death	45,000	X	\$ _____	= \$ _____
E. FMIS M40	12,000	X	\$ _____	= \$ _____
F. FMIS M42	4,000	X	\$ _____	= \$ _____
G. FMIS M43	8,000	X	\$ _____	= \$ _____
H. GES	16,000	X	\$ _____	= \$ _____
I. Kidney CMS 1500	52,000	X	\$ _____	= \$ _____
J. Kidney UB92/04	27,000	X	\$ _____	= \$ _____
K. Map	500	X	\$ _____	= \$ _____
L. STEPS / PASRR	20,000	X	\$ _____	= \$ _____
M. Medicaid UB92/04 IP/OP	1,800,000	X	\$ _____	= \$ _____
<b>N. Total Document Price Contract Year Two (A+B+C+D+E+F+G+H+I+J+K+L+M)</b>				<b>\$ _____</b>
<b>Pick-up &amp; Delivery</b>				
<b>Avg Gas Price (per gallon)*</b>	<b>Number of Round Trips (150 Annually)</b>	<b>X</b>	<b>Price per Round Trip</b>	
O. \$0.01 - \$1.99	30	X	\$ _____	= \$ _____
P. \$2.00 - \$2.99	30	X	\$ _____	= \$ _____
Q. \$3.00 - \$3.99	30	X	\$ _____	= \$ _____
R. \$4.00 - \$4.99	30	X	\$ _____	= \$ _____
S. \$5.00 or more	30	X	\$ _____	= \$ _____
<b>T. Total Pick-up &amp; Delivery Price Contract Year 2 (O+P+Q+R+S)</b>				<b>\$ _____</b>
Line "T" used for bidding and contract NTE amount; monthly invoice amount based on gas price for month being billed				

\* Based on average price per gallon of Regular unleaded gasoline for the Washington-Baltimore DC-MD-VA-WV region for the most recent month preceding the billing month, according to the U.S. Dept. of Labor Consumer Price Index (CPI). (<http://www.bls.gov/CPI/> ) SEE ATTACHMENT D for sample

<b>Total Price For Base Contract Year Two</b>	<b>(N + T)</b>	<b>=</b>	<b>\$</b> _____
			<b>TOTAL YEAR 2</b>

**Important: Do not alter this page.** Failure to fill out this bid page completely, or altering the bid page in any way may render your bid non-responsive. Should you have any questions regarding this bid page contact the Procurement Officer identified in PART I.



## Data Entry Services

### Department of Health and Mental Hygiene Information Resources Management Administration Financial Bid Sheet Base Contract Year # 3

BIDDER: \_\_\_\_\_

Document Type	Estimated Number of Records for 52 wk Period <i>(For bidding purposes only)</i>	X	Firm Fixed Unit Price per Record	Total Price
A. Burials	36,000	X	\$ _____	= \$ _____
B. Cancer CMS 1500	48,000	X	\$ _____	= \$ _____
C. Cancer UB92/04	12,000	X	\$ _____	= \$ _____
D. Death	45,000	X	\$ _____	= \$ _____
E. FMIS M40	12,000	X	\$ _____	= \$ _____
F. FMIS M42	4,000	X	\$ _____	= \$ _____
G. FMIS M43	8,000	X	\$ _____	= \$ _____
H. GES	16,000	X	\$ _____	= \$ _____
I. Kidney CMS 1500	52,000	X	\$ _____	= \$ _____
J. Kidney UB92/04	27,000	X	\$ _____	= \$ _____
K. Map	500	X	\$ _____	= \$ _____
L. STEPS / PASRR	20,000	X	\$ _____	= \$ _____
M. Medicaid UB92/04 IP/OP	1,800,000	X	\$ _____	= \$ _____
<b>N. Total Document Price Contract Year Three (A+B+C+D+E+F+G+H+I+J+K+L+M)</b>				<b>\$ _____</b>
<b>Pick-up &amp; Delivery</b>				
<b>Avg Gas Price (per gallon)*</b>	<b>Number of Round Trips (150 Annually)</b>	<b>X</b>	<b>Price per Round Trip</b>	
O. \$0.01 - \$1.99	30	X	\$ _____	= \$ _____
P. \$2.00 - \$2.99	30	X	\$ _____	= \$ _____
Q. \$3.00 - \$3.99	30	X	\$ _____	= \$ _____
R. \$4.00 - \$4.99	30	X	\$ _____	= \$ _____
S. \$5.00 or more	30	X	\$ _____	= \$ _____
<b>T. Total Pick-up &amp; Delivery Price Contract Year 3 (O+P+Q+R+S)</b>				<b>\$ _____</b>
Line "T" used for bidding and contract NTE amount; monthly invoice amount based on gas price for month being billed				

\* Based on average price per gallon of Regular unleaded gasoline for the Washington-Baltimore DC-MD-VA-WV region for the most recent month preceding the billing month, according to the U.S. Dept. of Labor Consumer Price Index (CPI). (<http://www.bls.gov/CPI/>) SEE ATTACHMENT D for sample

<b>Total Price For Base Contract Year Three</b>	<b>(N + T)</b>	<b>=</b>	<b>\$</b> _____
			<b>TOTAL YEAR 3</b>

<b>Total Price For Base Contract Year One</b>	<b>\$</b> _____
<b>Total Price For Base Contract Year Two</b>	<b>\$</b> _____
<b>Total Price For Base Contract Year Three</b>	<b>\$</b> _____
<b>TOTAL CONTRACT BASE PRICE (Years 1 + 2 + 3) BASIS FOR AWARD</b>	<b>\$</b> _____

NOTE #1: Offerors must propose a price for every Document type indicated above. Partial Offers are not permitted. Offers that omit a proposed price for any of the document types required shall not be considered.

NOTE #2: The Department intends to make a Single Award as a result of this solicitation. The Contract that results from this IFB shall be an Indefinite Quantity Contract with Firm Fixed Unit Prices, in accordance with COMAR 21.06.03.02 and 21.06.03.06.

NOTE #3: The "Total Document Price" specified in each of the base years is based on model quantities and will be used solely for bidding purposes and selection for recommendation for award. The "Estimated Number of Records for 52 Week Period" is for bidding purposes only. The Department does not guarantee any maximum or minimum quantities of records to be provided, but the contract shall establish a not to exceed contract amount. The actual amount to be paid to the Contractor shall be calculated using the Firm Fixed Unit Prices specified on the Financial Bid Sheet (Price per Record) and the actual number and type of records processed by the Contractor.

NOTE #4: Pick up and Delivery Price – The number of round trips at each level are estimates for bidding purposes only. The Department does not guarantee any minimum or maximum number of trips at any price level. The contract not to exceed amount shall be based on Total Pick-up and Delivery Price for Line T. The monthly invoice amount shall be calculated using the quoted price per trip for the appropriate CPI Average Gas Price times the number of round trips that month; actual amounts paid to the Contractor shall be based on number of trips and corresponding rate per trip.

NOTE #5: All Offered prices entered above are to be fully-loaded prices that include all costs/expenses associated with the provision of services, as required by this IFB. The Proposed prices shall include, but are not limited to, one-time programming and set-up costs, labor, profit/overhead, general operating, and all other expenses except as expressly excluded in the IFB specifications. No other amounts will be paid to the Contractor.

NOTE #6: By submitting this bid, the bidder, in the event of contract award, agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. See Part I, Electronic Funds Transfer.

These bid prices are attested to by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Federal Tax ID Number

**Important: Do not alter these pages.** Failure to fill out these bid pages completely, or altering the bid pages in any way may render your bid non-responsive. Should you have any questions regarding these bid pages contact the Procurement Officer identified in PART I.

### **PART III -- GENERAL SOLICITATION AND BID PROVISIONS**

- A. The Department of Health and Mental Hygiene reserves the right to cancel this solicitation or reject any or all bids, in whole or in part, to waive minor irregularities in bids, or to allow the bidder to correct a minor irregularity if the best interest of the State will be served by doing so (COMAR 21.06.02).
- B. All bids become the property of the Department of Health and Mental Hygiene. Neither the Department nor the State of Maryland shall be responsible for any expenses incurred by the bidders in preparing or submitting their bids.
- C. All bidders shall acknowledge the receipt of all amendments, addenda, and changes issued in connection with this solicitation.
- D. Bids may be modified or withdrawn by written notice received in the office designated in this Solicitation before the time and date set for the opening. If expressly permitted in the invitation for bids, notification of bid modification or withdrawal may be made by electronic means only in the manner specified in the invitation for bids.
- E.
  - 1. A bid, request to withdraw a bid, or a modification to a bid is late if it is not received by the Department at the place and by the date and time specified on page 1 of this Solicitation.
  - 2. A late bid, late modification, or late request for withdrawal shall not be considered. Exceptions may be made when a late bid is received before contract award, and the bid, the modification, or withdrawal would have been timely but for the action or inaction of State personnel directing the procurement activity or their employees. A late modification of a successful bid, which makes its terms more favorable to the State, shall be considered at any time it is received and may be accepted.
- F. All bidders must complete and submit with their bid the Bid/Proposal Affidavit attached hereto as **Appendix A**. Note that the Contract Affidavit (**Appendix B**) must be submitted by the successful bidder within ten (10) business days of being notified of recommendation for award.
- G. Unless otherwise specified under PART II of this solicitation, this contract shall be awarded to the responsive and responsible bidder submitting the most favorable (lowest) bid price.
- H. In the case of tie bids, the award will be made in accordance with COMAR 21.05.02.14, unless another tie breaker is defined under Section II of this document.
- I. Bidders should give specific attention to the identification of those portions of their proposal that they deem to be confidential, proprietary information, or trade secrets and provide any justification of why this information should not be disclosed under the Annotated Code of Maryland, §§ 10-611 through 10-630 of the State Government Article. Bidders are advised that, upon request for this information from a third party, the

Department is required to make an independent determination as to whether the information may or must be divulged to the party. Bidders are further advised that bids will be opened publicly unless specifically stated otherwise in Section II (see COMAR 21.05.02.11 and 21.05.02.17).

- J. Any bidder or other interested person who is aggrieved by the award of the contract resulting from this solicitation may protest that decision. If a protest is made, it shall be in accordance with the procedures set forth at COMAR 21.10.02.03. and 04.
- K. The State reserves the right to make the award by item, group of items, or total bid if it is in the best interest of the State to do so, unless the bidder specifies in its bid that a partial or progressive award is not acceptable. Note: this may render the bid non-responsive.
- L. The prices bid in response to this solicitation are irrevocable for a period of 90 days following the bid opening unless another period of time is contained in the bid specifications.
- M. Although Maryland law does not authorize procuring agencies to favor resident Bidders in awarding procurement contracts, many other states do grant their resident businesses preference over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Bidder whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this INVITATION FOR BIDS is in another state submits the most advantageous bid; the other state gives a preference to its residents through law, policy, or practice; and, the preference to be applied to the contract award herein does not conflict with a Federal law or grant affecting the procurement contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

(The Remainder of This Page Has Been Left Blank)

## PART IV -- CONTRACT INFORMATION

### **Parties and Term of Contract:**

This Contract, dated [enter today's date], is made by and between:

[enter the complete name of the contractor including any abbreviation, i.e. Inc., Ltd., LLC, PA, etc.]

[enter the contractor's complete business address]

Tax I.D. Number:

eMaryland Marketplace Registration Number: \_\_\_\_\_

hereinafter called the "contractor" and the \_\_\_\_\_, a unit of the Maryland Department of Health and Mental Hygiene, hereinafter called the "Department". Now, therefore, in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

This Contract shall commence on \_\_\_\_\_, and shall expire on \_\_\_\_\_.

### **Contract Type:**

The contract resulting from this Invitation For Bids will be a Firm Fixed Unit Price, Indefinite Quantity as described in COMAR 21.06.03.02. & 21.06.03.06

### **Federal Funds:**

1. There \_\_\_ are / X are not programmatic conditions that apply to this contract, regardless of the type of funding. If applied, these conditions are contained in Federal Funds Attachment A.
2. The total amount of federal funds allocated for the Medicaid Office of Systems, Operations & Pharmacy is \$ 15,409,882 in Maryland State fiscal year 2010. This represents 66.51% of all funds budgeted for unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or Invitation for Bid.
3. This contract X does / \_\_\_\_\_ does not contain federal funds.
4. If contained, the source of these federal funds is: Medical Assistance Program, State Children's Insurance Program. The CFDA number is 93.778 (MA); 93.767 (SCHIP). The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds Attachment B. Any additional conditions that apply to this federally funded contract are contained in Federal Funds Attachment C.
5. Acceptance of this agreement indicates your intent to comply with all conditions, which are part of this agreement.

## **Minority Business Enterprise (MBE) Commitment and Documentation**

The bidder shall provide the required MBE commitment (MBE Attachment A, Appendix H) and documentation of subcontractors (MBE Attachment B, Appendix H) identified in Part IV of this document, as part of the bid submission. **Failure to properly complete and include these documents in separate envelope labeled “MBE Documents” along with the sealed bid shall render the bid non-responsive and require that the Department not consider the bid for award. Completed MBE Attachments C and D, or E are also required if the bidder is recommended for award. Please read instructions accompanying each of these forms carefully.**

### **MBE Requirements**

#### **A. Subcontracting Participation Goal**

A Minority Business Enterprise (MBE) subcontract participation goal of an amount not less than **20 %** of the total dollar value of the contract has been established for this procurement. By submitting a response to this solicitation, the bidder agrees that one or more Maryland Department of Transportation (MDOT) certified MBEs will perform this percentage of the dollar value of the contract. That is, a prime contractor **must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors or request a partial or complete waiver request with documentation.** In the event that two or more offers are determined by the Procurement Officer to be equal, the Department of Health and Mental Hygiene may award a contract to the bidder whose bid reflects the highest percentage of certified MBE participation. Note: It is essential that the bidder be specific as to: 1) the identity of each MBE subcontractor proposed, 2) the type of work that each subcontractor will perform under the contract and 3) the percentage of the total contract price that each subcontractor's work will comprise of the total contract price. Lack of specificity in any of these areas will cause a bid to be determined not responsive or not susceptible of being selected for award, as will submission of MBEs whose individual percentages of work, when added together, do not at least equal the percentage of MBE participation identified in MBE Attachment A..

#### **B. Bid/Contract Submission Requirements – MBE Participation Documentation**

Bidders, including those bidders that are certified MBEs, shall:

- (a) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
- (b) Solicit certified MBEs in writing at least 10 days before bids or proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
- (c) Attempt to make personal contact with the certified MBEs solicited and to document these attempts;
- (d) Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements; and
- (e) Attend prebid or other meetings the procurement agency scheduled to publicize contracting opportunities to certified MBEs.

1.) MBE Utilization and Fair Solicitation Affidavit (MBE Attachment A)

The following document shall be considered as part of the contract and shall be furnished by the bidder in an envelope labeled "MBE documents". The bidder shall submit a completed MBE Utilization and Fair Solicitation Affidavit (see Appendix H, MBE Attachment A), whereby the bidder acknowledges the MBE participation goal and commits to make a good faith effort to achieve it. The bidder also affirms that in the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors, and that the solicitation process was conducted in such a manner so as to not otherwise place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors. Bidders must select either box 1b on the Affidavit, reflecting an intention to make a good faith effort to meet the goal, or box 1c on the Affidavit, reflecting an expectation that the goal will be partially, or not at all, met and that a waiver will be requested. This Affidavit must be submitted with the bid.

2.) MBE Participation Schedule (MBE Attachment B)

The following document shall be considered as part of the contract and shall be furnished by the bidder in the envelope labeled "MBE attachments". The bidder shall submit a completed MBE Participation Schedule (see Appendix H, MBE Attachment B) containing MDOT certified Minority Business Enterprises whereby the bidder responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation or on MBE Attachment A, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission and naming each proposed certified MBE who will participate in the project and describing the contract items to be performed or furnished by each MBE. The sum of the percentages of all MBE contractors must at least be equal to the amount of MBE participation indicated on MBE Attachment A. The bidder shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule. If Box 1b of the Affidavit (MBE Attachment A) is selected, Part 1 and Part 2 of this Attachment B must be fully completed as set forth herein. If Box 1c is selected, Part 1 of this Attachment B must be completed and Part 2 must include any MBE subcontractors that will partially complete the goal, or, if a total waiver is to be requested, the information in Part 2 may be blank.

**Note, this Attachment B with specific names of each subcontractor, specific work to be accomplished by each and specific percentages of the total contract amount that each will contribute, must be submitted with the bid regardless of which option (b or c) is selected in section 1 of the Affidavit (MBE Attachment A).**



READ  
THIS

**ATTENTION: If a bidder fails to submit properly completed MBE Attachment A and MBE Attachment B at the time of submittal of the bid as required, the Procurement Officer will deem the offer not reasonably susceptible of being selected for award of contract.**

3.) Other Documentation

Within 10 working days from notification that it is the apparent successful bidder, or from the date of award, whichever is earlier, (COMAR 21.11.03.10.B), the apparent successful bidder must submit to the Department of Health and Mental Hygiene's

Procurement Officer:

- a.) A completed Outreach Efforts Compliance Statement (see Appendix H, MBE Attachment C), signed by the bidder, which shall be considered as part of the contract. It shall include:
  - (i) A listing of specific work categories identified by the bidder in which there are subcontracting opportunities,
  - (ii) Copies of written solicitations used to solicit certified MBEs for these subcontracting opportunities,
  - (iii) A description of the bidder's attempts to personally contact the solicited MBEs, and
  - (iv) A description of bidder's efforts to fulfill or seek waiver of bonding requirements, if bonding required.
- b.) A completed Subcontractor Project Participation Statement (see Appendix H, MBE Attachment D). ). This statement must be consistent with the information included on the MBE Participation Schedule (MBE Attachment B), **unless any changes in MBE subcontractors have been submitted to and approved by the Department.** The Subcontractor Project Participation Statement, which shall be considered to be part of the contract, shall be signed by both the bidder and each MBE listed and shall include:
  - (i) A statement of intent to enter into a contract between the prime contractor and each subcontractor if a contract is executed between the Department of Health and Mental Hygiene and the prime contractor, and
  - (ii) The amount and type of bonds required of MBE subcontractors, if any.
- c.) Any other documentation considered appropriate by the Department of Health and Mental Hygiene to ascertain bidder responsibility in connection with the contract MBE participation goal.

**ATTENTION: If the apparent awardee fails to return each completed document within the required time, and in compliance with the requirements of this section B.2, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.**

4.) MBE Participation Waiver

If the apparent successful bidder is unable to achieve the contract goal for certified



MBE participation, the bidder must submit instead of, or in conjunction with an MBE Subcontractor Project Participation Statement, a written request for a waiver with justification, to include the following:

- (a) A detailed statement of the efforts made to select portions of the proposed work to be performed by the certified MBE's in order to increase the likelihood of achieving the stated goal;
- (b) A detailed statement of the efforts made to contact and negotiate with certified MBEs including the names, addresses, dates, and telephone numbers of the certified MBEs contacted and a description of the information provided to the certified MBEs regarding plans, specifications, and anticipated time schedules for portions of the work to be performed;
- (c) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder considered not to be acceptable, a detailed statement of the reasons for this conclusion; and
- (d) In the event certified minority subcontractors are found to be unavailable, a signed and notarized MBE Statement of Unavailability (MBE Attachment E) must be prepared by the apparent successful bidder, including the names, addresses, dates, and telephone numbers of the certified MBEs contacted, and the reason each MBE is unavailable. A waiver of a certified MBE contract goal shall be granted only upon reasonable demonstration by the apparent successful bidder that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the Secretary or designee determines that a waiver serves the public interest. COMAR (Code of Maryland Regulations) 21.11.03.11 governing the MBE waiver is included as MBE Attachment F.

### **C. MBE Compliance**

The Department will ensure ongoing compliance with subcontracting requirements by way of periodic reviews conducted by the Department and periodic reporting by both the prime contractor and certified MBE subcontractor(s). To this end the contractor shall:

- 1.) Submit monthly to the Department as noted below a Prime Contractor Unpaid MBE Invoice Report (MBE Attachment G) listing any unpaid invoices, over 30 days old, received from any certified MBE contractor, the amount of each invoice and the reason payment has not been made;
- 2.) Include in its agreement with certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department, a Subcontractor Payment Report (MBE Attachment H) that identifies the prime contract and lists all payments received from the contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices;

**Attention: One copy of each report noted above, is to be submitted monthly to the Department's Contract Monitor identified in this PART III of this solicitation and to the Office**

**of Community Relations, 5th floor, 201 West Preston Street, Baltimore, MD 21201 (410) 767-6600.**

- 3.) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of the work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the contractor and furnished to the Procurement Officer on request;
- 4.) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for Department inspection for a period of three years after final completion of the contract; and
- 5.) At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Upon determining the contractor's non-compliance, the Department shall notify the contractor in writing of its findings and shall specify what corrective actions are required. The contractor shall be required to initiate the corrective actions within 10 days and complete them within the time specified by the Department. If the Department determines that substantial noncompliance with MBE contract provisions exists and that the prime contractor refuses or fails to take corrective action required by the Department, then the following sanctions may be invoked:

- 1.) Withholding payment;
  - 2.) Termination of the contract;
  - 3.) Suspension of the right of the contractor to participate in any future contracts;
  - 4.) Referral to the Office of the Attorney General for appropriate action;
  - 5.) Initiation of any other specific remedy identified by the Contract; and
  - 6.) Any other compliance mechanism authorized in COMAR 21.11.03. or available at law.
- D. If the Department determines that the contractor has not complied with the certified MBE subcontractor participation goal, and has not obtained a waiver (See Appendix H, MBE Attachment F), the Procurement Officer, upon review by the Office of the Attorney General, may determine the contractor to be in breach of contract. The reasons for this action shall be specified in writing and mailed or delivered to the contractor.
- E. All questions related to MBE certification must be directed to:

Maryland Department of Transportation  
Office of Minority Business Enterprise/Equal Opportunity  
P.O. Box 8755  
BWI Airport  
Baltimore, Maryland 21240  
Telephone: (410) 865-1269

**Contract Monitors:**

The CONTRACT MONITOR for the Department is:

Joann McCray-Johnson  
Name (Typed)

Computer Operator Supervisor  
Title (Typed)

201 W. Preston Street, Room SS-4, Baltimore, MD 21201  
Business Address (Typed)

410-767-5489  
Business Telephone Number (Typed)

The Department's Contract Monitor is the primary point of contact for the Department for matters relating to this contract. The contractor shall contact this person immediately if the contractor is unable to fulfill any of the requirements of this contract or has any questions regarding the interpretation of the provisions of the contract.

The CONTRACT MONITOR for the contractor is:

---

Name (Typed)

---

Title (Typed)

---

Business Address (Typed)

---

Business Telephone Number (Typed)

The contractor's Contract Monitor is the primary point of contact for the contractor for matters relating to this contract. The contractor's Contract Monitor shall contact the Department's Contract Monitor immediately if the contractor is unable to fulfill any of the requirements of the contract or if there are any questions regarding the interpretation of the provisions of the contract.

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## PART V -- BILLING AND PAYMENT PROVISIONS

A. The contractor agrees to:

1. Bill the Department **monthly, no later than the 15<sup>th</sup> or each month for the preceding month's services** in triplicate, certifying thereto that the work and services have been performed, that payment for said work has not been received, and that the amount specified is due and owing.
2. All invoices must (at a minimum) be signed and dated, and include the following:
  - (a) The contractor's name and mailing address,
  - (b) The contractor's Federal Tax Identification or Social Security Number,
  - (c) The State assigned Contract Control Number \_\_\_\_\_,
  - (d) The State assigned ADPICS number \_\_\_\_\_,
  - (e) The goods or services provided,
  - (f) The time period covered by the invoice,
  - (g) The number of records of each document type processed during the billing period, the unit price and total price for each document type, pick-up and delivery costs, and
  - (h) The amount of requested payment.

3. **Prompt Pay Requirements**

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs and dated August 1, 2008. Promulgated pursuant to Sections 11-201, 13-205(a), and Title 14, Subtitle 3 of the State Finance and Procurement Article (SFP), and Code of Maryland Regulations (COMAR) 21.01.01.03 and 21.11.03.01 et seq., the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The successful Bidder who is awarded a contract must comply with the prompt payment requirements outlined in the Contract, Section VI Item 41.

4. Address all invoices **in triplicate** to:

Maryland Department of Health and Mental Hygiene  
Information Resources Management Administration  
Computer Operations Division  
201 W. Preston Street, Room SS-4  
Baltimore, MD 21201

If identified below, a copy of all invoices (which must be marked "copy") shall also be sent to:

\_\_\_\_\_  
(NAME)  
\_\_\_\_\_  
(TITLE)  
\_\_\_\_\_  
(STREET AND ROOM ADDRESS)  
\_\_\_\_\_  
(CITY, STATE, AND ZIP CODE)

B. The State agrees to pay the contractor:

1. The contract resulting from this IFB shall be an Indefinite Quantity Contract with Firm Fixed Unit Prices in accordance with COMAR 21.06.03.02 & 21.06.03.06 A(2). Payment will be made for actual work done (records processed and pick-up/delivery trips) in accordance with this Part V A1., and the unit prices agreed to in the contract and found on the Bid Page.
2. Electronic Funds Transfer (EFT) will be used to pay the contractor for the contract resulting from this solicitation and any other State payments unless the State Comptroller's Office grants the contractor an exemption. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for exemption.
3. Funding for any contract(s) resulting from this Invitation For Bids is dependent upon appropriations from the Maryland General Assembly.
4. Reduction/Withholding of Payment

The Department reserves the right to reduce or withhold contract payment in the event the contractor does not provide the Department with all required deliverables within the time frame specified in the contract or in the event that the contractor otherwise materially breaches the terms and conditions of the contract until such time as the contractor brings itself into full compliance with the contract. Any such action on the part of the Department, or dispute of such action by the contractor, shall be in accordance with the provisions of Md. Code Ann. St. Fin. & Proc., 15-215 through 15-223 and with COMAR 21.10.02.

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## **VI: GENERAL CONTRACT TERMS AND CONDITIONS**

In accordance with the Annotated Code of Maryland, State Finance and Procurement Article, and the Code of Maryland Regulations, COMAR Title 21, the following clauses are hereby incorporated as a part of this solicitation and the contract awarded as a result of this solicitation.

### **1. FINANCIAL DISCLOSURE**

The contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

### **2. PUBLIC INFORMATION ACT NOTICE**

Bidders should give specific attention to the identification of those portions of their bids that they deem to be confidential proprietary information or trade secrets and provide any justification of why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, Maryland Code Annotated, State Government Article, Title 10, Subtitle 6. Justification in support of such non-disclosure must accompany the bid. Upon request for information from a third party, the Procurement Officer is required to make an independent determination as to whether the information may or may not be disclosed. A blanket statement by a bidder that their entire bid is confidential or proprietary is unacceptable.

### **3. APPROVALS**

This contract may be subject to approval by the Office of the Attorney General, the Maryland Department of Budget and Management, and the Board of Public Works.

### **4. MULTI YEAR CONTRACTS**

If the General Assembly fails to appropriate funds, or if funds are not otherwise made available for continued performance of the contract for any fiscal period of the contract succeeding the first fiscal period, the contract shall be automatically cancelled as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, this will not affect either the Department's rights or the contractor's rights under any termination clause in the contract. The effect of termination of the contract will be to discharge both the contractor and the Department from future performance of the contract, but not from their obligation existing at the time of termination. The contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the services delivered under the contract. The State shall notify the contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

5. MODIFICATION OF CONTRACT

This contract may be amended as the Procurement Officer and the contractor mutually agree in writing (subject to any necessary approvals of the Office of the Attorney General, Department of Budget and Management and, in certain cases, the Board of Public Works). No amendment may change significantly the scope of the original solicitation or, if none, the original contract. An amendment to this contract does not alter the other terms of the contract, except to the extent necessary to make them consistent with the amendment. This contract may not be amended to provide salary and wage increases for the contractor's employees with the intention of making these increases consistent with salary and wage increases given to employees of the State except as provided in the Maryland Code Annotated, Health-General Article, §10-905.

6. NON-HIRING OF STATE EMPLOYEES

No official or employee of the State of Maryland, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this contract, shall, during the pendency and term of this contract and while serving as an official or employee of the State, become or be an employee of the contractor or any entity that is a subcontractor on this contract.

7. CONFLICT OF INTEREST LAW

It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval or disapproval, recommendation, advice, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother, or sister has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee, or agent has previously complied with the provisions of the Maryland Code Annotated, State Government Article, §15-501 et seq.

8. DISPUTES

This contract shall be subject to the provisions of the Maryland Code Annotated, State Finance and Procurement Article, Title 15, Subtitle 2 and COMAR 21.10. In accordance with the requirement of COMAR 21.10.04.02 the contractor must file a written notice of a claim with the procurement officer within 30 days after the basis for the claim is known or should have been known, whichever is earlier, but no later than the date final payment is made under the contract. Pending a resolution of a claim, the contractor shall proceed diligently with the performance of the contract in accordance with the Procurement Officer's decision.

9. MARYLAND LAW PREVAILS

The Provisions of this contract shall be governed by the laws of the State of Maryland.

10. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any sub-contract except a sub-contract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

11. CONTINGENT FEE PROHIBITION

The contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the contractor to solicit or secure this agreement; and that he has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or other consideration contingent on the making of this agreement.

12. TERMINATION FOR DEFAULT

The rights and remedies of the State under the contract are cumulative. The enforcement of any right or election of any remedy by the State provided by the contract for any breach of the contract will not preclude the State from enforcing other rights and availing itself of other remedies available under the contract for the same breach or any other breach of the contract.

If the contractor fails to properly perform its obligations under the contract, the State may correct such deficiencies at the contractor's expense.

If the Contractor fails to fulfill its obligations under this contract properly and on time, or otherwise violates any provision of the Contract, the Department may terminate the contract by written notice to the contractor. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished supplies and services provided by the contractor shall, at the Department's option, become the State's property. The Department shall pay the contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the contractor's breach. If the damages are more than the compensation payable to the contractor, the contractor will remain liable after termination and the Department can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11.B.

13. TERMINATION FOR CONVENIENCE

The performance of work under this contract may be terminated by the Department in accordance with this clause in whole, or from time to time in part, whenever the Procurement Officer shall determine that such termination is in the best interest of the State. The Department will pay all reasonable costs associated with this contract that the contractor has incurred up to the date of termination and all reasonable costs associated



with termination of the contract. However, the contractor shall not be reimbursed for any anticipatory profits, which have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12.A(2).

14. TAX EXEMPTION

The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates shall be completed upon request. Where a contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the contractor shall pay the Maryland sales tax and the exemption does not apply.

15. ARREARAGES

By submitting a response to this solicitation, a vendor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified; and
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract if selected for contract award.

16. NON-ASSIGNMENT

The contractor may not, during the term of this contract or any renewals or extensions of the contract, assign or sub-contract all or any part of the contract without the prior written consent of the Procurement Officer. However, the contractor may assign monies receivable under a contract after due notice to the Department's contract monitor.

17. DOCUMENTS RETENTION AND INSPECTION CLAUSE - OTHER THAN RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS

The contractor and sub-contractors shall retain and maintain all records and other documents relating to this contract for a period of five (5) years from the date of final payment by the State hereunder or any applicable statute of limitation, whichever is longer, and shall make the documents available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

18. DOCUMENTS RETENTION AND INSPECTION CLAUSE - RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS

If the contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the contractor

agrees, in addition to the requirements of Clause 17, above:

- (1) That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly authorized representatives, shall be granted access to the contractor's contract, books, documents and records necessary to verify the cost of the services provided under this contract, until the expiration of four years after the services are furnished under this contract; and
- (2) That similar access will be allowed to the books, documents and records of any organization related to the contractor or controlled by the contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is sub-contracting to provide services with a value of \$10,000 or more in a twelve-month period to be reimbursed through funds provided by this contract.

#### 19. INDEMNITY (HOLD HARMLESS) CLAUSE

##### A. Definitions.

For the purpose of this clause only, the following terms have the meanings indicated:

- (1) "Contractor" means the contractor, its officers, employees, agents, and representatives.
- (2) "State" means the State, its departments, agencies, officials, officers, and employees.
- (3) "Sub-contractor" means any sub-contractor of the contractor, its officers, employees, agents, and representatives.

##### B. Indemnification by contractors.

The contractor shall indemnify and hold the State of Maryland harmless for any cost, expense, loss, liability, fine, or penalty of any nature or character whatsoever that the State may incur as a result of a failure of the contractor, or its subcontractor(s), to comply with the terms of this agreement (or any part thereof), negligence of the contractor, injury or death to any person, damage to property, nuisance (public or private), or trespass arising out of or attributable to the performance of work by the contractor or its subcontractor(s), except to the extent caused by the negligent or willful act or omission of the State or its employees, agents, or independent contractors, other than the contractor, or its subcontractor(s).

The contractor further agrees to indemnify the State for damage, loss, or destruction of State property in the contractor's care, custody, and/or control during the term of this contract due to the action or inaction of the contractor or its subcontractor(s).

C. Liability of State.

State law prohibits the State from incurring, by way of an indemnity agreement, a potentially unlimited liability when no funds have been appropriated to fund the liability, the risk is uninsured, and the indemnity agreement is not conditioned upon the future appropriation of funds to satisfy the liability. Notwithstanding any other provisions of the contract documents, the State shall have no liability to the contractor under the circumstances described in this paragraph

The State has no obligation to provide legal counsel or legal defense to the contractor or its sub-contractors in the event that a suit, claim or action of any character is brought by any person or persons not party to the contract against the contractor or its sub-contractors as a result of or relating to the contractor's obligations under this contract.

The State has no obligation for the payment of any judgments or the settlement of any claims made against the contractor or its sub-contractors as a result of or relating to the contractor's obligations under this contract.

D. Notice of and Cooperation in Litigation.

The contractor will immediately give notice to the Procurement Officer of any claim or suit made or filed against the contractor or its sub-contractors regarding any matter resulting from or relating to the contractor's obligations under this contract, and will cooperate, assist and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the contractor's obligations under this contract.

20. COST AND PRICE CERTIFICATION

A. The contractor shall submit cost or price information and shall certify that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

- (1) A negotiated contract if the total contract price is expected to exceed \$100,000, or a smaller amount set by the Procurement Officer; or
- (2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.

B. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

21. PAYMENT OF STATE OBLIGATIONS AND INTEREST

- A. Payments to the contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the contractor. Charges for late payment of invoices, other than as prescribed by the Maryland Code Annotated, State Finance and Procurement Article, § 15-104 et seq. or by the Public Service Commission of Maryland, with respect to regulated public utilities, as applicable, are prohibited.
- B. The Maryland Code Annotated, State Finance and Procurement Article, §15-104 et seq. provides that the State shall remit payment to the contractor within forty-five (45) days after receipt of a proper invoice pursuant to any authorized, written procurement contract. Except as provided in State Finance and Procurement Article, §15-105, the State's failure to remit payment within this period may entitle the contractor to interest at the rate specified in State Finance and Procurement Article, §15-104, for the period that begins thirty one (31) calendar days after the receipt date. This amount, if paid, shall be in lieu of payment of any other late charge(s) by the State.
- C. For purposes of this contract, an amount will not be deemed "due and payable" and interest payments will not be authorized for late payments unless the following conditions have been met:
  - (1) The amount invoiced is consistent with the amount agreed upon by the parties to the contract.
  - (2) The goods or services have been received by the State and the quantity received agrees with the quantity ordered.
  - (3) The goods or services meet the qualitative requirements of the contract and have been accepted by the State.
  - (4) The proper invoice has been received by the party or unit of government specified in the contract.
  - (5) The invoice is not in dispute.
  - (6) If the contract provides for progress payments, the proper invoice for the progress payment has been submitted pursuant to the schedule contained in the contract.
  - (7) If the contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have been met.

- D. In order to receive payment of interest, the contractor must submit a proper invoice for accrued interest within 30 calendar days after the payment date (i.e., the date of the check from the State Treasurer that pays the contractor for the goods supplied or the service rendered) of the amount on which the interest accrued. Interest may not be claimed (1) if a claim has been filed under the Maryland Code Annotated, State Finance and Procurement Article, §15-201 through 223, (2) if the accrual period is more than one year following the 31st calendar day after the date that a proper invoice is received by a State agency, or (3) on an amount representing unpaid interest.

## 22. INSPECTION OF PREMISES

The contractor agrees to permit authorized officials of the State to inspect, at reasonable times, its plant, place of business, job site, or any other location that is related to the performance of the contract.

## 23. INCORPORATION BY REFERENCE

All terms and conditions under the solicitation, and any amendments thereto, are made a part of this Contract. In the event of contract award, the contract shall consist of the INVITATION FOR BIDS, including all addenda, exhibits, and attachments. This shall constitute the entire agreement between the contracting parties, superseding all representations, commitments, conditions, or agreements that may have been made orally or in writing prior to the execution of the contract.

## 24. SPECIFICATIONS

All materials, equipment, supplies, or services shall conform to federal and State laws and regulations and to the specifications contained in the solicitation.

## 25. DELIVERY AND ACCEPTANCE

Delivery shall be made in accordance with the solicitation specifications. The State, at its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the contractor's control. The State unilaterally may order, in writing the suspension, delay, or interruption of performance hereunder. The State reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met. The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to or on the date specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications shall be rejected. Rejected materials shall be promptly replaced. The State reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.

26. ANTI-BRIBERY

Potential contractors and sub-contractors are required to be aware of the Maryland Code Annotated, State Finance and Procurement Article, §16-202, that requires that any person convicted of bribery, attempted bribery, or conspiracy to bribe committed in the obtaining of a contract from the State or any of its subdivisions, shall be subject to disqualification pursuant to the Maryland Code Annotated, State Finance and Procurement Article, §16-202, from entering into a contract with the State, or any county or other subdivision of the State.

27. REGISTRATION

Pursuant to the Maryland Code Annotated, Corporations and Associations Article, §7-201, et seq. corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation. The contractor shall be responsible for ensuring that all subcontractors meet these requirements and further that the contractor and all subcontractors meet these requirements for the duration of the contract.

Any potential bidder who has questions concerning this requirement is advised to contact the Department of Assessments and Taxation at (410) 767-1330. It is strongly recommended that potential bidders be completely registered prior to the due date for receipt of bids. Failure to register may result in the rejection of a bidder's bid.

28. EPA COMPLIANCE

Materials, supplies, equipment, or services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable.

29. OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.)

All materials, supplies, equipment, or services supplied as a result of this Contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.

30. PATENT, COPYRIGHTS, TRADE SECRETS, AND INDEMNIFICATION

If the contractor furnishes any design, device, material, process, or other item which is covered by a patent or copyright, or which is proprietary to, or a trade secret of another, it is solely the responsibility of the contractor to obtain the necessary permission or license to use such item or items. The contractor hereby grants to the Department a royalty-free, nonexclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all data now and hereafter covered by copyright, and warrants that it has the authority to do this.

If any products furnished by the contractor become, or in the contractor's opinion are likely to become, the subject of a claim of infringement, the contractor will, at its option: a) procure

for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

If the contractor obtains or uses for purposes of the contract (or any subcontracts) any design, device, material, process, supplies, equipment, text, instructional material, services or other work, the contractor shall indemnify the State, DHMH, their officials, agents, and employees with respect to any claim, action, cost, or judgment for patent, trademark, or copyright infringement, arising out of the possession or use of any design, device, material, process, supplies, equipment, text, instructional material, services or other work covered by this contract.

### 31. STATE CONTRACT PREVAILS

Whenever a vendor/contractor's standard contract is used along with this State's contract, this State's Contract shall prevail in the event of conflict between any provision of the two contracts when the State determines it to be in its best interest.

### 32. CHANGE ORDERS AND SUSPENSION OF WORK

Both parties agree that pursuant to the Maryland Code Annotated, State Finance and Procurement Article, §13-218, 1) the State has the unilateral right to order in writing changes in the work within the scope of the contract; and 2) the procurement officer unilaterally may order the contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as the procurement officer may determine to be appropriate for the convenience of the State.

### 33. RIGHTS IN DATA

Work produced as a result of this solicitation is and shall remain the sole property of the Department of Health & Mental Hygiene (DHMH).

The contractor agrees that all documents, equipment, and materials, including but not limited to, reports, drawings, studies, specifications, estimates, texts, computer software including software documentation and related materials, maps, photographs, designs, graphics, mechanicals, art work, computations and data prepared by or for, or purchased by or for, the contractor because of this contract shall, at any time during the term of the contract, be available to DHMH and shall become and remain the exclusive property of DHMH during and upon termination or completion of the services required to be performed under this contract.

DHMH shall have the right to use same without restriction and without compensation to the contractor other than that provided in this contract.

The contractor agrees that, at all times during the term of this contract and thereafter, the works created and services performed shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created under this

contract are not works for hire for DHMH, the contractor hereby transfers and assigns to DHMH all of its rights, title and interest (including all intellectual property rights) to all such products created under this contract, and will cooperate reasonably with DHMH in effectuating and registering any necessary assignments.

The contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Vendor with respect to all data delivered under this agreement.

The contractor shall not affix any restrictive markings upon any data and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such markings.

#### 34. DELAYS AND EXTENSIONS OF TIME

The contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable cause beyond the control and without the fault or negligence of the contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the contractor or the subcontractors or suppliers.

#### 35. PRE-EXISTING REGULATIONS

In accordance with the provisions of the Maryland Code Annotated, State Finance and Procurement Article, §11-206, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract.

#### 36. POLITICAL CONTRIBUTION DISCLOSURE

The contractor shall comply with Maryland Code Annotated, Election Law Article, §§14-101 through 14-108, which requires that every person that enters into contracts, leases or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the



6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

37. COMPLIANCE WITH LAWS

By submitting a bid in response to this solicitation the vendor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified.
- B. It shall comply with all Federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- C. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

38. PROHIBITION OF SEXUAL HARASSMENT

The contractor shall operate under this agreement so that no employee or client is subjected to sexual harassment in the workplace or in locations and situations otherwise associated with the performance of duties per the terms of this contract. Further, except in sub-contracts for standard commercial supplies or raw materials, the contractor shall include this clause, or a similar clause approved by DHMH, in all sub-contracts. The contractor has primary responsibility for enforcement of these provisions and for securing and maintaining the sub-contractor's full compliance with both the letter and spirit of this clause.

39. COMMERCIAL NONDISCRIMINATION

- A. As a condition of entering into this Agreement, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Contractor from participating in State contracts, or other

sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

- B. As a condition of entering into this Agreement, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the state of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

#### 40. LIVING WAGE REQUIREMENTS

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland. Additional information regarding the State's wage requirement is contained in this solicitation (see Appendix E entitled Living Wage Requirements for Service Contracts). If the Bidder fails to submit and complete the required documentation under State law, the State may determine a Bidder to be not responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least \$11.72 per hour, if State contract services valued at 50% or more of the total value of the contract are performed in the Tier 1 Area. If State contract services valued at 50% or more of the total value are performed in the Tier 2 Area, a Bidder shall pay each covered employee at least \$8.81 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation will be deemed to be a Tier 1 contract or a Tier 2 contract depending on the location(s) from which the contractor provides 50% or more of the services. If the contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the contract will be a Tier 1 contract. If the contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the contract will be a Tier 2 contract. If the contractor provides more than 50% of the services from an out-of-State location, then the contract will be deemed to be a Tier 1 contract. [Note: agency determines where the majority of the service recipients are located and makes a Tier 1 or Tier 2

determination on that basis.] The Bidder must identify in their Bid the location from which services will be provided.

41. PROMPT PAYMENT DIRECTIVE – In accordance with the Directive by the Governor’s Office of Minority Affairs dated August 1, 2008:

- A. If a contractor withholds payment of an undisputed amount to its subcontractor, the Agency, at its option and in its sole discretion, may take one or more of the following actions:
  - (1) Not process further payments to the contractor until payment to the subcontractor is verified
  - (2) Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
  - (3) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
  - (4) Place a payment for an undisputed amount in an interest-bearing escrow account; or
  - (5) Take other or further actions as appropriate to resolve the withheld payment.
- B. An “undisputed amount” means an amount owed by a contractor to a subcontractor for which there is no good faith dispute, including any retainage withheld, and includes an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- C. An act, failure to act, or decision of a procurement officer or a representative of the Agency, concerning a withheld payment between a contractor and subcontractor under this policy directive, may not:
  - (1) Affect the rights of the contracting parties under any other provision of law;
  - (2) Be used as evidence on the merits of a dispute between the Agency and the contractor in any other proceeding; or
  - (3) Result in liability against or prejudice the rights of the Agency.
- D. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.
- E. To ensure compliance with certified MBE subcontract participation goals, the Agency may, consistent with COMAR 21.11.03.13, take the following measures:
  - (1) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.

- (2) This verification may include, as appropriate:
  - a. Inspecting any relevant records of the contractor;
  - b. Inspecting the jobsite; and
  - c. Interviewing subcontractors and workers.
  - d. Verification shall include a review of:
    1. The contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
    2. The monthly report of each certified MBE subcontractor, which lists payments received from the contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.
- (3) If the Agency determines that a contractor is in noncompliance with certified MBE participation goals, then the Agency will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action.
  - a. Corrective action may include, but is not limited to, requiring the contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
- (4) If the Agency determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Agency requires, then the Agency may:
  - a. Terminate the contract;
  - b. Refer the matter to the Office of the Attorney General for appropriate action; or
  - c. Initiate any other specific remedy identified by the contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.
- (5) Upon completion of the contract, but before final payment or release of retainage or both, the contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

## **PART VII: INCORPORATION BY REFERENCE**

The documents listed below are hereby incorporated into this contract and made an integral part thereof. (Type "NONE" if none)

TITLE	Number of Pages
_____	_____
_____	_____
_____	_____
_____	_____

(The Remainder of This Page Is Blank)

## PART VIII: SIGNATURE PAGE

Specifications and terms and conditions of this solicitation and the contract to be awarded as a result of this solicitation, including any addenda identified in PART VII, are attached hereto consisting of \_\_\_ pages (Parts I through VIII, including the Bid Page, which is page number \_\_\_\_\_, dated \_\_\_\_\_ and titled \_\_\_\_\_

In compliance with this above Solicitation for Bids, the Bidder agrees, if this bid is accepted within 90 days from the date of the bid opening, to furnish the item(s) or service(s) for which prices are quoted. Upon acceptance of this bid by the Secretary of Health and Mental Hygiene or authorized representative, the bidder (contractor) agrees to perform under the specifications and provisions included herein and attached hereto for the consideration specified herein.

### SIGNATURE OF AUTHORIZED SIGNATORY OF BIDDER

(Sign in ink)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Name (Typed) Date

\_\_\_\_\_  
Title (Typed)

### ACCEPTANCE BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Signatory for the Department shall be the Secretary, DHMH or designee

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Name (Typed) Date

\_\_\_\_\_  
Title (Typed)

Approved as to form and Legal Sufficiency  
This \_\_\_\_\_ day of \_\_\_\_\_

By: \_\_\_\_\_  
Assistant Attorney General

\_\_\_\_\_  
Name (Typed)

**BID/PROPOSAL AFFIDAVIT**

**A. AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT:

I am the (title) \_\_\_\_\_ and the duly authorized representative of (business) \_\_\_\_\_ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

**B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION**

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendors, supplier’s or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the state of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken.

Bidder agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

**C. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in §16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities including obtaining or performing contracts with public bodies, has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded

nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
  - (a) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
  - (b) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961, et seq., or the Mail Fraud Act, 18 U.S.C. §1341, et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of the §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (1) through (5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or
  - (9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B — C and subsections (1) through (8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):
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E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension):

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F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to §16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):



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G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or bidder or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101—14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland,

including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

K. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
  - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
  - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
  - (c) Prohibit its employees from working under the influence of drugs or alcohol;
  - (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
  - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
  - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
    - (i) The dangers of drug and alcohol abuse in the workplace;
    - (ii) The business' policy of maintaining a drug and alcohol free workplace;

- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
  - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §K(2)(b), above;
- (h) Notify its employees in the statement required by §K(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
  - (i) Abide by the terms of the statement; and
  - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
- (i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
  - (i) Take appropriate personnel action against an employee, up to and including termination; or
  - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
- (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §K(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §K(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.
- (4) I acknowledge and agree that:
  - (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
  - (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as

applicable; and

- (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

- (1) The business named above is a (domestic \_\_\_\_ ) (foreign \_\_\_\_ ) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: \_\_\_\_\_

Address: \_\_\_\_\_

(If not applicable, so state).

- (2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

N. Repealed.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of

the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_

(Authorized Representative and Affiant)

Revised March 30, 2007

**CONTRACT AFFIDAVIT**

**A. AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT:

I am the \_\_\_\_\_ and the duly authorized representative  
of (title)

\_\_\_\_\_  
(name of business)

and that I possess the legal authority to make this Affidavit on behalf of my self and the business for which I am acting.

**B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT**

I FURTHER AFFIRM THAT:

1. The business named above is a (domestic \_\_\_\_\_) (foreign \_\_\_\_\_) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

2. Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

**C. CERTAIN AFFIRMATIONS VALID**

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY  
THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST  
OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date:\_\_\_\_\_ By:\_\_\_\_\_

(Authorized Representative and Affiant)

**MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

**Standard Addendum for the Means of Delivering Bids or Proposals**

Any bid or proposal due to any unit of the Maryland Department of Health and Mental Hygiene shall be delivered/transmitted as described in this addendum. The failure of any bidder or offeror to follow these instructions may result in its bid or offer not being received by the due time and date, which will result in the rejection of that bid or offer.

There are three acceptable means of delivering/transmitting a bid or offer:

1. The United States Postal Service;
2. Hand delivery by the bidder/offeror itself; and
3. Hand delivery by a commercial delivery/courier company acting as an agent of the bidder/offeror.

The detailed manner for the utilization of each of these methods is described below:

**For U. S. Postal Service Deliveries**

For U.S. Postal Service deliveries, any bid or proposal that has been received at the appropriate mail room or typical place of mail receipt for the respective procuring unit by the time and date listed in the RFP or specifications will be deemed to be timely.

If a vendor chooses to use the United States Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only.

These are the only forms of U.S. Postal Delivery for which both the date and time of receipt can be verified by the Department. A vendor using first class mail will, therefore, not be able to prove a timely delivery at the mail room. It may take several days for an item sent by first class mail to make its way by normal internal mail pickup to a procuring unit's bid box.



**For Hand Deliveries by Vendors and Deliveries  
By Commercial Courier Services**

These deliveries must be delivered directly to the room or location specified in the RFP or solicitation and placed in the designated bid box. A bidder who uses a commercial courier service must take appropriate action to ensure that the courier actually delivers the bid/offer to the specified location and not to the Department's mailroom or loading dock. The bid/offer will not be deemed to have been received until it is placed in the designated bid box.

For any type of hand delivery, the vendor or its commercial courier services should request a signed receipt from a procuring unit employee which notes the title of the procurement, the name of the vendor, and the time and date of receipt at the bid box.

**Identifying Information**

All envelopes containing bids or offers, no matter how transmitted, must contain this information prominently displayed:

- either "Sealed Bid" or "Sealed Proposal," as appropriate;
- the exact title of the bid or proposal as noted in the RFP or specifications;
- the due time and date; and
- the name of the bidder/offeror.

Questions on any of these requirements should be directed to the Department contact person identified in the RFP or solicitation or to the Office of Procurement and Support Services at (410) 767-5816.

**Living Wage Requirements for Service Contracts**

- A. This contract is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract. The Living Wage Law does not apply to an employee who works less than thirteen consecutive weeks and full-time on a contract subject to the Living Wage.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
    - (A) has a State contract for services valued at less than \$100,000, or
    - (B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
  - (2) A Subcontractor who:
    - (A) performs work on a State contract for services valued at less than \$100,000,
    - (B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
    - (C) performs work for a contractor not covered by the Living Wage Law as defined in B(1)(B) above, or B (3) or C below.
  - (3) Contracts involving services needed for the following:
    - (A) Services with a Public Service Company;
    - (B) Services with a nonprofit organization;
    - (C) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
    - (D) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract determines that application of the Living Wage

would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.

- D. A Contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as an independent contractor or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.
- H. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.
- I. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the DLLR website <http://dllr.state.md.us> and clicking on Living Wage.

**Affidavit of Agreement**

**Maryland Living Wage Requirements-Service Contracts**

Contract No. \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**If the Contract is Exempt from the Living Wage Law**

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons (check all that apply):

- \_\_\_\_\_ Bidder/Offeror is a nonprofit organization
- \_\_\_\_\_ Bidder/Offeror is a public service company
- \_\_\_\_\_ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- \_\_\_\_\_ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

**If the Contract is a Living Wage Contract**

A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

**Affidavit of Agreement**  
**Maryland Living Wage Requirements-Service Contracts**

B. \_\_\_\_\_ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- \_\_\_\_\_ The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract
- \_\_\_\_\_ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- \_\_\_\_\_ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_ Date \_\_\_\_\_

Title
-------

Witness Name (Typed or Printed)

\_\_\_\_\_  
 Witness Signature Date

## APPENDIX \_\_F\_\_

### BUSINESS ASSOCIATE AGREEMENT

This business associate agreement is made this day of \_\_\_\_\_, \_\_\_\_\_, between \_\_\_\_\_, a unit of the Department of Health and Mental Hygiene (\_\_\_\_\_, or the Department), and \_\_\_\_\_ (the Contractor), a contractor to the Department under \_\_\_\_\_ (the Primary Contract).

#### I. PURPOSE AND SCOPE

A. For good and lawful consideration as set forth in the Primary Contract, the Department and the Contractor enter into this agreement for the purpose of ensuring compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations (45 CFR Parts 160 and 64) and the Maryland Confidentiality of Medical Records Act (MCMRA).

B. This agreement applies to the conduct of the Contractor in connection with protected health information anticipated to be provided to, collected, maintained or used by the Contractor in connection with its performance under the Primary Contract.

#### II. DEFINITIONS

A. The terms used in this Agreement have the meanings set forth in the Privacy Rule, 49 CFR Parts 160 and 164, and as set forth subsection B of this section.

B. As used in this agreement the following terms have the meanings indicated:

1. "Department" means the Maryland State Department of Health and Mental Hygiene.
2. "Designated Record Set" means a group of records maintained by or for the Department that is (i) the medical records and billing records about individuals maintained by or for the Department, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan, or (iii) used, in whole or in part, by or for the Department to make decisions about individuals. As used in this Agreement, the term "record" means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for the Department. (45 CFR §164.501)
3. "Disclosure" means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information. (45 CFR §164.501)
4. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 (the Social Security Act, 42 U.S.C. 1320a-7(c)(a)(5), and 1320d-2 and 1320d-4.)
5. "Individual" has the same meaning as the term "individual" in 45 CFR §164.501 and includes a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
6. "MCMRA" means the Maryland Confidentiality of Medical Records Act, Md. Code Ann., Health-General, §4-301 et seq.
7. "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
8. "Protected health information" as defined in the Privacy Rule §§160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer. For purposes of this Agreement, protected health information is limited to the information created or received by the Contractor from or on behalf of the Department.

9. "Required by law" means a mandate contained in law that compels an entity to make use or disclosure of protected health information, that is enforceable in a court of law, and includes but is not limited to the itemized activities set forth in 45 CFR §164.501.
10. "Secretary" means the Secretary of the Department of Health and Human Services or his designee.
11. "Use" means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information. (45 CFR §164.501)

### **III. PERMITTED USES AND DISCLOSURES BY CONTRACTOR**

A. The Contractor agrees to use or disclose protected health information only as permitted or required by the Privacy Rule, this Agreement, or as otherwise required by law.

B. Except as otherwise provided in this Agreement, the Contractor may:

1. Use or disclose protected health information to perform functions, activities, or services for, or on behalf of, the Department as specified in the Primary Contract, provided that the use or disclosure would comply with the Privacy Rule if done by the Department, is consistent with the MCMRA, and complies with the Department's minimum necessary policies and privacy practices and procedures.
2. Use protected health information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor;
3. Disclose protected health information to a third party as necessary to carry out its obligations under the Primary Contract, for proper management and administration of the Contractor or to carry out the Contractor's legal responsibilities if:
  - a. the disclosure is required by law;
  - b. the Contractor obtains reasonable assurances from the third party to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and
  - c. the third party notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached; and
4. Use protected health information to provide data aggregation services to the Department as permitted by 42 CFR §164.504(e)(2)(i)(B).

C. The Contractor may use protected health information to report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

### **IV. CONTRACTOR REQUIREMENTS**

A. The Contractor agrees to implement appropriate safeguards to prevent use or disclosure of the protected health information other than as provided in section III of this Agreement, including:

1. Limitation of the amount of protected health information used or disclosed pursuant to Section III of this Agreement to the minimum necessary to carrying out the functions of the Primary Contract and to otherwise achieve the purposes of the use and disclosure;
2. Taking steps to protect the physical security of and prevent unauthorized access to the protected health information, furnishing the Department with a written description of these steps, and allowing representatives of the Department access to premises where the protected health information is maintained for the purpose of inspecting the physical security arrangements; and
3. Requiring each of its employees having involvement with protected health information to comply with applicable laws and regulations relating to confidentiality of protected health information, including the provisions of this Agreement and the Maryland Confidentiality of Medical Records Act.

B. The Contractor agrees to:

1. Mitigate, to the extent practicable, any harmful effect that is known to Contractor, of a use or disclosure of Protected health information by Contractor in violation of the requirements of this Agreement;
2. Report to the Department any use or disclosure of the protected health information not consistent with this Agreement of which it becomes aware within 5 days of the time it becomes aware of the use or disclosure;

3. Ensure that any agent, including a subcontractor, agrees to the same restrictions and conditions that apply to the Contractor with respect to any protected health information provided to the agent that is received from, or created or received by Contractor on behalf of the Department;
4. Provide access, at the request of the Department, and in the time and manner directed by the Department, to protected health information in a designated record set maintained by the Contractor, to the Department or, as directed by the Department, to an individual in order to meet the requirements under 45 CFR §164.524;
5. Make any amendment(s) to protected health information in a designated record set maintained by the Contractor that the Department directs or agrees to pursuant to 45 CFR §164.526 at the request of the Department or an individual, and in the time and manner directed by the Department;
6. Make available to the Department, and to the Secretary, in a time and manner directed by the Department or designated by the Secretary, any protected health information received from, or created or received by Contractor on behalf of the Department, as well as any internal practices, books, and other records relating to the use and disclosure of protected health information, for purposes of the Secretary determining the Department's compliance with the Privacy Rule;
7. Document disclosures of protected health information and information related to such disclosures as would be required for the Department to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR §164.528; and
8. Provide to the Department or an individual, in time and manner directed by the Department, information collected in accordance with subsection (7) of this section, to permit the Department to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR §164.528.

C. Upon termination of the Primary Contract, the Contractor agrees that, except as provided in subsection V(C) of this Agreement, all of the protected health information provided by the Department to the Contractor, or created or received by the Contractor on behalf of the Department pursuant to the Primary Contract will be destroyed or returned to the Department.

## **V. TERM AND TERMINATION**

A. This Agreement shall be effective as of \_\_\_\_\_. It shall remain in effect unless otherwise terminated for the entire term of the Primary Contract including any extensions, options or modifications, or, as appropriate, in accordance with the requirements of paragraph (C) of this subsection.

B. Upon the Department's knowledge of a material breach by Contractor, the Department will either:

1. Provide an opportunity for the Contractor to cure the breach or end the violation and terminate this Agreement for cause if the Contractor does not cure the breach or end the violation within the time specified by the Department;
2. Immediately terminate this Agreement for cause if the Contractor has breached a material term of this Agreement and cure is not possible; or
3. If neither termination nor cure is feasible, report the violation to the Secretary.

C. Effect of Termination of this Agreement.

1. Except as provided in paragraph 2 of this section, upon termination of this Agreement for any reason, the Contractor shall return or document the destruction of all protected health information received from the Department, or created or received by the Contractor on behalf of the Department. This provision shall apply to protected health information that is in the possession of subcontractors or agents of the Contractor. The Contractor shall retain no copies of the protected health information.
2. If the Contractor believes that returning or destroying the protected health information is infeasible, the Contractor shall provide to the Department notification of the conditions that make return or destruction infeasible. If the Department agrees that return or destruction of protected health information is infeasible, the Contractor shall extend the protections of this Agreement to the protected health information and limit further uses and disclosures of the protected health information to those purposes that make the return or destruction infeasible, for so long as the Contractor maintains the protected health information.

D. Termination of this Agreement for cause pursuant to this subsection may be viewed by the Department



as a breach of the Primary Contract and grounds for termination in accordance with the default termination clause of the Primary Contract.

## **VI. MISCELLANEOUS**

A. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

B. The Parties agree to take such action to amend this Agreement from time to time as is necessary for the Department to comply with the requirements of the Privacy Rule and HIPAA.

C. The respective rights and obligations of the Contractor under Section V(C) of this Agreement shall survive the termination of this Agreement.

D. Any ambiguity in this Agreement shall be resolved to permit the Department to comply with the Privacy Rule.

## **VII. COMPLIANCE WITH STATE LAW**

**The Contractor acknowledges that by accepting the protected health information from the Department, it becomes a holder of medical records information under the Maryland Confidentiality of Medical Records Act (Md. Ann. Code, Health-General §§4-301 et seq) and is subject to the provisions of that law. If the HIPAA Privacy Rule and the MCMRA conflict regarding the degree of protection provided for protected health information, the Contractor shall comply with the more restrictive protection requirement.**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Typed                      Date

\_\_\_\_\_  
Title

For the Contractor

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Typed                      Date

\_\_\_\_\_  
Title

For the Department

**State of Maryland  
Comptroller of Maryland**

---

**Vendor Electronic Funds Transfer (EFT) Registration Request Form**

---

Date of request \_\_\_\_\_

**Business identification information (Address to be used in case of default to check):**

Business name \_\_\_\_\_

Address line 1 \_\_\_\_\_

Address line 2 \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip code: 

--	--	--	--	--	--

--	--	--	--	--	--

Business taxpayer identification number:

Federal Employer Identification Number: 

--	--

--	--	--	--	--	--	--	--

(or) Social Security Number: 

--	--	--

--	--

--	--	--	--	--	--

Business contact name, title, and phone number including area code. (And address if different from above).

---

**Financial institution information:**

Name and address \_\_\_\_\_

Contact name and phone number (include area code) \_\_\_\_\_

ABA number: 

--	--	--	--	--	--	--	--	--	--

Account number: 

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Account type: ☐ Checking ☐ Money Market

**A VOIDED CHECK from the bank account must be attached.**

**Transaction requested:**

1. \_\_\_\_ Initiate all disbursements via EFT to the above account.
2. \_\_\_\_ Discontinue disbursements via EFT, effective \_\_\_\_\_
3. \_\_\_\_ Change the bank account to above information – a copy of the approved

Registration Form for the previous bank account must be attached.

I am authorized by \* \_\_\_\_\_ (hereinafter Company) to make

the representations contained in this paragraph. Company authorizes the Comptroller and the Treasurer of Maryland to register it for electronic funds transfer (EFT) using the information contained in this registration form. Company agrees to receive all funds from the State of Maryland by electronic funds transfer according to the terms of the EFT program. Company agrees to return to the State of Maryland any EFT payment incorrectly disbursed by the State of Maryland to the Company's account. Company agrees to hold harmless the State of Maryland and its agencies and departments for any delays or errors caused by inaccurate or outdated registration information or by the financial institution listed above.

\*Name of registering business entity

\_\_\_\_\_  
Signature of company treasurer, controller, or chief financial officer and date

**Completed by GAD/STO**

Date Received \_\_\_\_\_

GAD registration information verified \_\_\_\_\_ Date to STO \_\_\_\_\_

STO registration information verified \_\_\_\_\_ Date to GAD \_\_\_\_\_

R\*STARS Vendor No. and Mail Code Assigned:

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
-----

\_\_\_\_\_  
State Treasurer's Office approval date

\_\_\_\_\_  
General Accounting Division approval date

To Requestor:

Please retain a copy of this form for your records. Please allow approximately 30 days from the date of your request for the Comptroller's and Treasurer's Offices to process your request.

Failure to maintain current information with this office could result in errors in payment processing. If you have any questions, please call the EFT registration desk at 410-260-7375.

**Please submit form to:** EFT Registration, General Accounting Division

Room 205, P.O. Box 746

Annapolis, Maryland 21404-0746

COT/GAD X-10

Certified MBE Utilization  
and Fair Solicitation  
Affidavit

\*\*\***NOTICE**\*\*\*

If the bidder or offeror fails to properly complete and submit this form with the bid or offer, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

**Complete the information requested below in paragraphs 1 and 1a.**

1. In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, I affirm the following:
  - 1a. I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_\_\_ percent and, if specified in the solicitation, subgoals of \_\_\_\_\_ percent for MBEs classified as African American-owned and \_\_\_\_\_ percent for MBEs classified as women-owned.

**Check paragraph 1b. or 1c. If paragraph 1c is selected, fill in the percentage of MBE participation to be achieved (from 0% up to per cent specified in RFP).**

- ☐ 1b. I have made a good faith effort to achieve this goal and intend to meet or surpass it. I acknowledge that the MBE subcontractors/suppliers listed in the MBE Participation Schedule (MBE Attachment B) shall be used to accomplish the percentage(s) of MBE participation noted above in 1a.

**OR**

- ☐ 1c. After having made a good faith effort to achieve the MBE participation goal, I conclude I am unable to achieve it. Instead, I propose to achieve MBE participation of \_\_\_\_\_% and request a waiver of the remainder of the goal. Within 10 business days of receiving notice that I or the firm I represent is the recommended bidder or recommended offeror, I will submit a written waiver request compliant with COMAR 21.11.03.11. I acknowledge that the MBE subcontractors/suppliers listed in the MBE Participation Schedule (MBE Attachment B) shall be used to accomplish the percentage of MBE participation I am able to achieve as indicated above.
2. I have identified the specific commitment of certified Minority Business Enterprises by completing and submitting an MBE Participation Schedule (MBE Attachment B) with the bid or financial proposal.
  3. I understand that if I am notified that I am the apparent awardee, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
    - (a) Outreach Efforts Compliance Statement (Attachment C)
    - (b) Subcontractor Project Participation Statement (Attachment D)

- (c) MBE Waiver Request per COMAR 21.11.03.11 (if applicable)
- (d) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

I acknowledge that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

- 4. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
- 5. The solicitation process was conducted in such a manner so as to not place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors.

I solemnly affirm under the penalties of perjury that the contents of this paper are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Bidder/Offeror Name

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name, Title

\_\_\_\_\_  
Date

**Submit this Affidavit with Bid/Technical Proposal**  
Maryland Department of Health and Mental Hygiene  
201 West Preston Street  
Baltimore, Maryland 21201

**MBE Participation Schedule**

◀◀◀◀◀ NOTICE ▶▶▶▶▶

The bidder shall complete Part I in all cases. If Box (1b.) is selected in Attachment A, Part II shall be completed to identify all MBE subcontractors, describe the work each will perform and provide the percentage of the Total Contract Amount that each will receive. DO NOT USE "TBD" IN ANY OF THESE FIELDS.. If Box (1c.) is selected on Attachment A, MBE subcontractors that will partially meet the goal shall be identified, or, if a total waiver is requested, Part II need not be completed. In no case, however, shall this Attachment be omitted in its entirety or submitted without completing Part I and signing. If the bidder or offeror fails to submit the form with the bid or financial proposal as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

NOTE: It is essential that if either complete or partial compliance with the MBE goal set out in the solicitation is selected, the sum of the percentages of the Total Contract Price for all of the MBE subcontractors identified below shall at least equal the percentage of MBE subcontracting which is committed to on Attachment A.

**PART I.**

Prime Contractor: (Firm Name, Address, Phone)	Project Description
Project Number: DHMH OPASS ____ - _____	Total Contract Amount: \$

**PART II.**

List Information For Each Certified MBE Subcontractor On This Project

A. Subcontractor (Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Percentage of Total Contract Price to be provided by this MBE: _____	

B. Subcontractor: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Percentage of Total Contract Price to be provided by this MBE: _____	
C. Subcontractor: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Percentage of Total Contract Price to be provided by this MBE: _____	
D. Subcontractor: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Percentage of Total Contract Price to be provided by this MBE: _____	Percentage of Total Contract:
E. Subcontractor: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Percentage of Total Contract Price to be provided by this MBE: _____	

F. Subcontractor: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Percentage of Total Contract Price to be provided by this MBE: _____	
G. Subcontractor: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Percentage of Total Contract Price to be provided by this MBE: _____	
H. Subcontractor: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Percentage of Total Contract Price to be provided by this MBE: _____	

Sum of Percentages of Total Contract Price

MBE Subcontractor A percentage \_\_\_\_\_

+ MBE Subcontractor B percentage \_\_\_\_\_

+ MBE Subcontractor C percentage \_\_\_\_\_

+ MBE Subcontractor D percentage etc \_\_\_\_\_

TOTAL Percentage: \_\_\_\_\_ (Must be equal to or greater than MBE percentage indicated on MBE Attachment A)

Document Prepared By:

Name \_\_\_\_\_

List Additional MBE Subcontractors or Provide Additional Comments on Separate Form.



Outreach Efforts

Compliance Statement

In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, I state the following:

1. Bidder/ Offeror identified opportunities to subcontract in these specific work categories (Attach additional pages if necessary):
  - 
  - 
  - 
  -
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MBEs. (Attach additional pages if necessary):
  - 
  - 
  - 
  -
4. ☐ Bidder/Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements. (Describe Efforts) (Attach additional pages if necessary)
- ☐ This project does not involve bonding requirements.
5. ☐ Bidder/Offeror did / did not attend the pre-bid conference.  
☐ No pre-bid conference was held.

\_\_\_\_\_  
Bidder/Offeror Name

By: \_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

To Be Submitted By Recommended Bidder/Offeror

Maryland Department of Health and Mental Hygiene  
201 West Preston Street  
Baltimore, Maryland 21201

Provided that \_\_\_\_\_ is awarded the State contract in  
(Prime Contractor Name)  
conjunction with Solicitation No. \_\_\_\_\_, the Prime Contractor and  
\_\_\_\_\_ MDOT Certification No. \_\_\_\_\_, \_\_\_\_\_, intend to  
(Subcontractor Name)  
enter into a contract by which Subcontractor shall \_\_\_\_\_  
(Describe Work)

\_\_\_\_\_ The following amount and type of bonds are required of Subcontractor:

Date \_\_\_\_\_

MARYLAND DEPARTMENT OF HEALTH & MENTAL HYGIENE

**MINORITY CONTRACTOR UNAVAILABILITY CERTIFICATE**

**Section I (to be completed by PRIME CONTRACTOR)**

I hereby certify that the firm of \_\_\_\_\_  
(Name of Prime Contractor)

located at \_\_\_\_\_,  
(Zip) (Number) (Street) (City) (State)

on \_\_\_\_\_ contacted certified minority business enterprise, \_\_\_\_\_  
(Date) (Name of Minority Business)

\_\_\_\_\_ located at \_\_\_\_\_,  
(State)(Zip) (Number) (Street) (City)

seeking to obtain a bid for work/service for project number \_\_\_\_\_, project name \_\_\_\_\_

List below the type of work/ service requested:

Indicate the type of bid sought, \_\_\_\_\_. The minority business enterprise identified above is either unavailable for the work /service in relation to project number \_\_\_\_\_, or is unable to prepare a bid for the following reasons(s):

The statements contained above are, to the best of my knowledge and belief, true and accurate.

\_\_\_\_\_  
(Name) (Title)

\_\_\_\_\_  
(Number) (Street) (City) (State) (Zip)

\_\_\_\_\_  
(Signature) (Date)

**Note:** Certified minority business enterprise must complete Section II on reverse side.

**Section II (to be completed by CERTIFIED MINORITY BUSINESS ENTERPRISE)**

I hereby certify that the firm of \_\_\_\_\_ MBE Cert.# \_\_\_\_\_  
(Name of MBE Firm)

located at \_\_\_\_\_

\_\_\_\_\_  
(Number) (Street) (City) (State) (Zip)  
was offered the opportunity to bid on project number \_\_\_\_\_, ON \_\_\_\_\_  
(Date)

by \_\_\_\_\_  
(Prime Contractor's Name) (Prime Contractor Official's Name) (Title)

The statements contained in Section I and Section II of this document are, to the best of my knowledge and belief, true and accurate.

\_\_\_\_\_  
(Name) (Title) (Phone)

\_\_\_\_\_  
(Signature) (Fax Number)

**MARYLAND DEPARTMENT OF HEALTH & MENTAL HYGIENE**  
**Code of Maryland Regulations (COMAR)**  
**Title 21, State Procurement Regulations**  
(regarding a waiver to a Minority Business Enterprise subcontracting goal)

**COMAR 21.11.03.11 - Waiver.**

- A. If, for any reason, the apparent successful bidder or offeror is unable to achieve the contract goal for certified MBE participation, the bidder or offeror may request, in writing, a waiver to include the following:
- (1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs in order to increase the likelihood of achieving the stated goal;
  - (2) A detailed statement of the efforts made to contact and negotiate with certified MBEs including:
    - (a) The names, addresses, dates, and telephone numbers of certified MBEs contacted, and
    - (b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
  - (3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder or offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
  - (4) A list of minority subcontractors found to be unavailable. This list should be accompanied by an MBE unavailability certification signed by the minority business enterprise, or a statement from the apparent successful bidder or offeror that the minority business refused to give the written certification: and
  - (5) The record of the apparent successful bidder or offeror's compliance with the outreach efforts required under Regulation .09B(2)(b).
- B. A waiver of a certified MBE contract goal may be granted only upon reasonable demonstration by the bidder or offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the agency head or designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability, and availability of certified MBEs in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.
- C. An agency head may waive any of the provisions of Regulations .09-.10 for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.
- D. When a waiver is granted, except waivers under Section C, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE Liaison Officer with another copy forwarded to the Office of Minority Affairs.

MBE Attachment G

**MARYLAND DEPARTMENT OF HEALTH & MENTAL HYGIENE**  
**MINORITY BUSINESS ENTERPRISE PARTICIPATION**  
**Prime Contractor Unpaid MBE Invoice Report**  
To Be Completed Monthly by Prime Contractor

<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Report Month/Yr _____</div> <div style="border: 1px solid black; padding: 5px;">Report Due by 15<sup>th</sup> of following month.</div>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Contract # _____</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Contracting Unit _____</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Contract Amount _____</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">MBE Subcontract Amount _____</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Contract Begin Date _____ End Date _____</div>
---	---

Prime Contractor Name	Contact Person	
Address		
City	State	Zip
Phone	Fax	email

Subcontractor Name	Contact Person	
Address		
City	State	Zip
Phone	Fax	email
Subcontractor Services Provided		

**List any unpaid invoices over 30 days old received from this vendor and reason for non-payment.**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**Total Amount Unpaid \$** \_\_\_\_\_

**\*\*If more than one MBE subcontractor is used for this contract, please use separate report forms. Return one copy of this form to each of the following (3) addresses:**

\_\_\_\_\_ Contract Monitor  
\_\_\_\_\_ Contracting Unit  
DHMH  
\_\_\_\_\_  
\_\_\_\_\_

Ms. Beverly Spence  
Maryland DHMH  
Office of Community Relations  
201 W. Preston St. 5<sup>th</sup> floor  
Baltimore, MD 21201

Signature \_\_\_\_\_ Date \_\_\_\_\_

MBE Attachment H

**MARYLAND DEPARTMENT OF HEALTH & MENTAL HYGIENE**  
**MINORITY BUSINESS ENTERPRISE PARTICIPATION**

**Subcontractor Payment Report**

To Be Completed Monthly by MBE Subcontractor

Report Month/Yr _____ <b>Report Due by 15<sup>th</sup> of following month.</b>	Contract # _____ Contracting Unit _____ Contract Amount _____ MBE Subcontract Amount _____ Contract Begin Date _____ End Date _____ Services Provided _____
---	--

Prime Contractor Name	Contact Person
Address	
City	State
Phone	Fax
	email

Subcontractor Services Provided \_\_\_\_\_

MBE Subcontractor Name	MDOT Certification #
Contact Person	Address
City	State
Phone	Fax
	email

Subcontractor Services Provided \_\_\_\_\_

**List all payments received from Prime**

Invoice #	Amount \$
1.	
2.	
3.	

**List dates and amounts of any outstanding invoices sent to Contractor in the preceeding 30 days.**

Date`	Amount \$
1.	
2.	

Total Dollars Paid \$	Total Dollars Unpaid \$
-----------------------	-------------------------

**Return one copy of this form to each of the following (3) addresses:**

Joann McCray- Johnson, Contract Monitor  
 Brendan Clifford, Contracting Unit  
 DHMH – IRMA  
 201 W. Preston St., 4<sup>th</sup> Floor  
 Baltimore, MD 21201

Ms. Beverly Spence  
 Maryland DHMH  
 Office of Community Relations  
 201 W. Preston St. 5<sup>th</sup> floor  
 Baltimore, MD 21201

Subcontractor Signature \_\_\_\_\_ Date \_\_\_\_\_

**State Holidays 2009**

New Year's Day – January 1  
Birthday of Martin Luther King, Jr – January 19  
President's Day – February 16  
Memorial Day – May 25  
Independence Day – July 3 (celebrated on Friday)  
Labor Day – September 7  
Columbus Day – October 12  
Veteran's Day – November 11  
Thanksgiving Day – November 26  
Day After Thanksgiving – November 27  
Christmas Day – December 25

When a State holiday occurs on a Saturday or Sunday, the holiday is observed on the Friday before or the Monday after the actual holiday, respectively. State employees also observe a holiday on year's when there is a Presidential election.

A copy of the exact dates for official State holidays shall be provided to the Contractor by the Department's Contract Monitor on an annual basis.